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SPORTS.COMM: IT TAKES A VILLAGE TO BUILD A SPORTS FACILITY

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&

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In the past twenty years, over 100 new or renovated sports facilities have been developed in cities across the United States.² In the 1990s, approximately \$15 billion was spent on major league facilities, with approximately \$11 billion of the funding contributed by state and local governments.³ Since 2003, the four major sports leagues—Major League Baseball (MLB), the National Football League (NFL), the National Basketball Association (NBA), and the National Hockey League (NHL)—have seen the development of twenty-one new facilities, at a cost of over \$16 billion,⁴ nearly equal to the cost of the sixty-five facilities built the decade before.⁵

As stadium costs, not to mention revenues, continue to rise, the American taxpayer continues to be the largest underwriter of sports facilities for its home teams. For example, in MLB during the 1990s, nine new stadiums were completed⁶ with over eighty percent of the cost of those MLB ballparks

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1. Special thanks to the following for their research on this article: Laurie Frey, Daniel Friedman, Doug Fuglsang, Elise Harris, Rachel Lindsay, and Robert Wagener

2. Nick Rieder, *An Analysis of Sports Facility Costs and Developments from 1989–2009*, 10 *SPORTS FACILITY REPORTS* 3 (2009) available at <https://law.marquette.edu/images/sports/v10-sports-facility-costs.pdf>.

3. Christopher Gregory, *The House that Joe Taxpayer Built: Preserving the Role of Baseball Stadiums Without Providing Distorted Public Subsidies*, 1 *WILLAMETTE SPORTS L.J.* 1, 3 (2004), available at http://www.willamette.edu/wucl/pdf/sportslaw/spring04/gregory_stadiums.pdf.

4. See Nick Rieder, *supra* note 2, at 4.

5. See *id.* at 3.

6. Tropicana Field (Tampa Bay Rays), U.S. Cellular Field (Chicago White Sox), Oriole Park at Camden Yards (Baltimore Orioles), Rangers Ballpark in Arlington (Texas Rangers), Progressive Field (Cleveland Indians), Coors Field (Colorado Rockies), Turner Field (Atlanta Braves), Chase Field (Arizona Diamondbacks), and Safeco Field (Seattle Mariners).

financed through public resources.⁷ From 2000 through the planned construction of the new Miami Marlins ballpark in 2012, fourteen MLB stadiums have or will be completed.⁸ Fifty-four percent of the cost of those MLB ballparks was financed through public resources.⁹ Twenty-three of the thirty MLB teams received new or renovated stadiums during the period from 1990 to 2010. Therefore, most MLB teams were able to take advantage of a booming American economy during the 1990s and early 2000s to convince local taxpayers to help finance their stadiums.

The trend towards primarily public financing of sports facilities has finally begun to shift as a result of today's recessionary economy. The poor economy has: (1) led to a lack of political support, (2) decreased public appetite for funding state-of-the-art facilities, (3) limited state governmental capacity to finance large-scale infrastructure projects, (4) forced state governments to reprioritize spending, and (5) decreased the desirability of using municipal bonds to finance a stadium construction project. Therefore, economic and political realities necessarily require more private-side participation in order to construct future sports facilities. More private-side participation may include an increase in the owner's cash contribution, league contributions, private loans, further sharing of contractually obligated income, service provider participation, business and charitable community contributions, more utilization of personal seat licenses and seat mortgages, unique integrated partnerships, the investment of gambling interests, and auxiliary real estate development, to name a few.

Opponents of public financing for stadium construction argue that sports venues financed largely with public dollars ("sports pork") are nothing more than a form of public subsidy to benefit leagues, private team owners, and players. They claim that governmental units throughout the country are mortgaging their future to the sports industry. Opponents also refuse to acknowledge statistics that demonstrate how stadiums create a net positive economic impact through the direct and indirect benefits sports venues can

7. BRIAN REICH, *BASEBALL AND THE AMERICAN CITY: AN EXAMINATION OF PUBLIC FINANCING AND STADIUM CONSTRUCTION IN AMERICAN PROFESSIONAL SPORTS*, URBAN STUDIES 3546 (2001), available at <http://www.stadiummouse.com/stadium/economic.html>.

8. AT&T Park (San Francisco Giants), Minute Made Park (Houston Astros), Comerica Park (Detroit Tigers), PNC Park (Pittsburgh Pirates), Miller Park (Milwaukee Brewers), Great American Ball Park (Cincinnati Reds), PETCO Park (San Diego Padres), Citizens Bank Park (Philadelphia Phillies), Busch Stadium (St. Louis Cardinals), Nationals Park (Washington Nationals), Yankee Stadium (New York Yankees), Citi Field (New York Mets), Target Field (Minnesota Twins), and New Marlins Ballpark (Florida Marlins).

9. Josh Goodman, *Skybox Skeptics: It's Getting Harder and Harder for Baseball Teams to Wrangle Public Money for New Stadiums*, GOVERNING (Feb. 28, 2007), <http://www.governing.com/topics/economic-dev/Skybox-Skeptics.html>.

provide a city. They argue that the positive economic impact that a sports facility creates simply represents a transfer of dollars from one entertainment source to another within a city. Therefore, as the American economy has slowed, the critics of “sports pork” have become much more aggressive in their attempts to derail even reasonable public financing proposals.

It is not the purpose of this article to draw the reader into such debate. The franchise owner pays dearly in the form of an acquisition or franchise fee to bring a sports team to a community.¹⁰ To obtain and maintain sports franchises in a community, governmental units are likewise required to pay a municipal entitlement or franchise fee.¹¹ The municipal entitlement or franchise fee usually takes the form of the public’s creation or renovation of a team sports facility; it is the cost of sitting at the table and being a major league city.¹²

In the modern context, a sports facility is more than a place to view a sporting event. Sports venues have become a catalyst for urban transformation or revitalization. A sports facility is a destination place, an entertainment district, a bundling stimulus, a real estate development, and a place where people can work, eat, watch, congregate, buy, and socialize. Sports facility development is nothing more than real estate development. If constructed thoughtfully, a sports facility could convert the image of a league or team owner from a tax vulture into a long-term leader and visionary for a community. Moreover, a newly constructed or renovated venue can bring complete renewal and revitalization to blighted areas, environmentally hazardous sites, aged communities, or near-downtown areas. Real estate development has become a central component of sports facility development, and the results thereof—urban revitalization and transformation—may be as important as the building of the sports facility itself.

Sports facilities have long been a staple of the economic recovery tool kit and are intended to jump-start the recovery of dilapidated or vacant urban districts.¹³ A major shift in the focus of economic development and rationale used to justify these investments has occurred in the past decade. While previous decades saw stadium proponents emphasize the indirect economic benefits of a new facility using terms such as “spin-offs,” “multipliers,” and

10. Darren Rovell, *NHL Franchise Fees: Is the Price Right?*, ESPN (Aug. 9, 2007), <http://a.espncdn.com/nhl/s/expansion4a.html>.

11. Martin J. Greenberg, *Sports Facility Financing and Development Trends in the United States*, 15 MARQ. SPORTS L. REV. 93, 154 (2004).

12. *Id.*

13. DENNIS COATES & BRAD R. HUMPHREYS, PROFESSIONAL SPORTS FACILITIES, FRANCHISES, AND URBAN ECONOMIC DEVELOPMENT, UMBC ECONOMICS DEPARTMENT WORKING PAPER 03-103, 2, available at http://www.umbc.edu/economics/wpapers/wp_03_103.pdf.

“job creation,” the current economic development rationale for almost all of these projects rests upon the idea of district redevelopment; that is: the facility is a catalyst for physical redevelopment of a portion of the city’s core.

Special Activity Generator (SAG) is a strategy for downtown redevelopment centered on the idea that large facilities that generate special activity within a district can anchor redevelopment within that district by drawing visitors and suburbanites to downtown for events.¹⁴ This influx of people can provide the critical mass necessary to support other commercial activities in the district. In addition, these large projects can galvanize other investments in the district by the public sector in the form of new infrastructure or urban design improvements which help to establish and sustain a revitalized district.

The SAG strategy has three central objectives: (1) to generate spillover spending benefits for the surrounding district, (2) to produce new construction within a district, and (3) to rejuvenate a blighted area. Based on these broad objectives, three indicators of successful urban redevelopment can be derived, including reuse of existing buildings or spaces, new construction within the surrounding district, and emergence of a new entertainment or sports district. As a result of the growing use of sports facilities as economic generators, team owners and cities have begun to focus their stadium financing proposals on the venue’s ability to catalyze redevelopment utilizing the objectives and indicators mentioned above. This trend has led to the creation of a new type of sports venue that combines the needs of a sports franchise with the needs of a community to create a regional sports and entertainment destination, or sports.comm.

This article will address the relationship between sports facilities, real estate, and urban development. Part I will discuss the concept of a receptive community and what subsidies governmental units have been willing to assist in with respect to the real estate development component of a sports.comm. Part II of the article will discuss the theory of concentric circles, which is the happenstance or rippling economic development that results from placing a sports venue in a community. Part III will discuss the concept of sports.comm; that is, a planned community utilizing the sports facility as the anchor for a larger planned development. Part IV of the article will next discuss the recent phenomenon of the delayed sports.comm. Part V will analyze delayed or failed sports.comm projects. Part VI will give an overview of the future of sports.comm development. Finally, Part VII of this article will

14. Timothy S. Chapin, *Sports Facilities as Urban Redevelopment Catalysts*, 70 J. AM. PLANNING ASS’N 193, 194 (2004), available at [http://www.cdfa.net/cdfa/cdfaweb.nsf/ord/e9e4f2ed094eee898825793600641064/\\$file/sportsfacilities1.pdf](http://www.cdfa.net/cdfa/cdfaweb.nsf/ord/e9e4f2ed094eee898825793600641064/$file/sportsfacilities1.pdf).

highlight the best practices that should be utilized for the successful creation of a sports.comm.

I. RECEPTIVE COMMUNITIES

If the surrounds of a sports facility are going to experience real estate and economic development, both the facility and the development must be part of a “receptive community.” A receptive community has a number of components.

First, a receptive community must have a need or desire for a new or renovated sports facility and envision the sports facility as the centerpiece for future real estate development. Preferably, the venue is located in the downtown or near downtown area, wherein the current use of the land or improvements are blighted, environmentally impacted, underdeveloped, aged, or socially impacted.

Second, a receptive community must have a political or civic leader or organization that takes center stage and advocates for either a new sports facility or a renovated sports facility as the centerpiece for real estate development and transformation of an area of that community.

Third, the area in which the new or renovated sports facility is to be located must be surrounded by properties that accommodate auxiliary development with land assemblage possibilities. In the alternative, there must be the availability of publicly owned or acquired properties that have strong site characteristics and strong potential for adjacent development and public infrastructure such as transit, roads, and parking.

Fourth, if the community does not have sufficient area to accommodate auxiliary real estate development, the community must have the financial capability and desire to exercise statutory or quick-take condemnation power in order to deliver land as part of the assemblage in an expeditious manner.

Fifth, a receptive community must have a governmental unit that has or is willing to adopt flexible zoning laws for the proposed development, which allows for multiple and mixed uses as well as increased density.

Sixth, a receptive community must also provide incentives to locate the real estate development as part of a sports facility development by providing roadway and infrastructure construction, beautification, enhancements, utilities, parking, potential leasing of the property developed, tax abatement, reduction of impact fees, expedited permitting and approval, waiver of various development requirements, and willingness, as previously stated, to assemble adjacent lands.

Finally, a receptive community involves governmental units that have the availability and willingness to utilize financial incentive tools and subsidies to

promote real estate and economic development.

Some of the tools that communities can use and have used as incentives for real estate and economic development include the following:

A. *Tax Increment Financing (TIF) Districts*

TIF districts were first utilized in California in 1952 and are now used in forty-nine states and the District of Columbia to meet each area's unique economic development needs and challenges.¹⁵ Most notably, TIF has been utilized in the development of Nationwide Arena, which is discussed in detail below. TIF helps local communities attract private development and new businesses utilizing local resources that do not depend upon an increase in taxes or the reduction of other services.¹⁶ The theory behind TIF is simple. TIF is a tool that utilizes projected future expansion of the overall tax base to finance current improvements that theoretically will create the gains.¹⁷ In essence, a governmental unit makes expenditures to promote development that would not otherwise be likely to occur. Thereafter, the resulting development increases the tax base by attracting new business. Other taxing jurisdictions within the TIF district (such as school districts, county, technical colleges and the like) agree to forego the increase in property tax revenue so that the governmental unit can use it exclusively to repay the cost of public improvements.¹⁸ If the development results in an increased tax base, the governmental unit recoups the cost of their investment, and thereafter, all taxing jurisdictions that are part of the TIF district share in the new tax base.

For example, assume that a governmental unit wants to redevelop a designated area that includes parcels that contain substandard, obsolete, and vacant or merely vacant commercial buildings. Assume that these parcels are currently paying \$90,000 per year in real estate taxes. The local government unit determines that by making an investment of \$2.5 million to rehabilitate those buildings and provide necessary infrastructure, private developers will commit an additional \$8 million, making the commercial buildings available for rental and utilization. These additional investments cause the real estate to increase in assessed valuation, and the real estate taxes paid on these parcels to increase from \$90,000 per year to \$210,000 per year. The project would then result in \$120,000 of new tax increment each year, which the governmental unit could use to offset its original investment in the property.

15. CRAIG L. JOHNSON, TAX INCREMENT FINANCING, NATIONAL ASSOCIATION OF REALTORS 1 (Nov. 2002), [http://www.realtor.org/smart_growth.nsf/docfiles/TIFreport.pdf/\\$FILE/TIFreport.pdf](http://www.realtor.org/smart_growth.nsf/docfiles/TIFreport.pdf/$FILE/TIFreport.pdf).

16. *Id.* at 2.

17. *Id.* at 4.

18. *Id.* at 6.

State-enabling legislation gives local governmental units the authority to designate TIF districts. The districts usually have legislatively mandated time periods including a maximum expiration and maximum life periods.¹⁹ Most governments that utilize TIF districts must utilize a “but for” test, which mandates that the governmental unit demonstrate that the area would not have been developed or redeveloped but for the public investment provided through the TIF. TIF designated properties must be blighted, declining, underperforming, vacant, contaminated, or in need of basic development.²⁰

Following approval, the tax base in the blighted district is frozen at the predevelopment level. Real estate taxes continue to be paid, but the real estate taxes derived from increases in the assessed value resulting from new development (the tax increment) either go into a special fund created to retire bonds issued to originate the development or leverage future growth in the TIF district. The tax freeze lasts for a defined period of time as set forth either in the redevelopment plan or by statute.²¹ At the end of the defined period, taxing jurisdictions enjoy the benefit of increased property values, and therefore, increased real estate taxes. In some instances, revenue streams other than real estate taxes are used as increments. Increases in sales and use taxes and even project-related income taxes are the most readily available revenue recapture targets.

A TIF program may also be developer-financed. With a developer-financed TIF, the governmental unit “borrows the funds for project costs not by issuing general obligation debt to be held by the public but by issuing limited obligation debt to the developer.”²² The developer lends money to the governmental unit; the governmental unit uses the money to pay for the project costs to help the developer’s project; and the loan is evidenced by a debt instrument issued by the governmental unit to the developer or developer bond.²³ Under the developer bond, the governmental unit repays the developer out of tax increment that is generated by the district.²⁴ A governmental unit’s obligation is limited to the amount of tax increment actually generated.²⁵ A developer-financed TIF is desirable for a governmental unit because it uses none of its constitutional debt capacity and

19. *Id.* at 12–13.

20. *See, e.g.*, WIS. STAT. § 66.1105(2)(ae) (2011).

21. JOHNSON, *supra* note 15, at 7–8.

22. Jesse S. Ishikawa, *Developer-Funded Tax Incremental Financing: Promoting Development Without Breaking the Bank*, 79 WIS. LAWYER 5 (May 2006), available at <http://www.wisbar.org/AM/Template.cfm?Section=Search&template=/CM/HTMLDisplay.cfm&ContentID=57609>.

23. *Id.*

24. *Id.*

25. *Id.*

because it shifts the financial risks of the project not generating sufficient increment from the governmental unit to the developer.²⁶

TIF may be utilized by numerous projects related to sports venue development and may be used to cover a variety of construction costs. Typical TIF projects include the creation and financing of public infrastructure improvements such as sewers, waterways, and streets; redevelopment of blighted, substandard, obsolete, or vacated buildings; demolition; land acquisition and assemblage; professional studies; and remediation of contaminated or polluted areas. Depending upon the state's enabling legislation, some or all of the following costs may utilize TIF financing: the administration of a TIF redevelopment project; property acquisition and assemblage; rehabilitation; construction of public works and improvements; relocation; job training; financing costs; studies, surveys and plans; marketing; and professional services.

B. New Market Tax Credits

New Market Tax Credits (NMTC) were established under the Community Renewal Tax Relief Act of 2000.²⁷ The NMTC program allows taxpayers to claim a credit against federal income taxes for qualified equity investments made to acquire stock or a capital interest in designated Community Development Entities (CDE).²⁸ The most notable use of NMTC financing in the development of a sports.comm was the Benson Family's redevelopment of the Superdome, discussed below.

A CDE is the vehicle through which NMTC investments are made. A qualified CDE's primary mission is to serve the needs of or provide investment capital to low-income communities or individuals. Once a CDE is certified by the Community Development Financial Institutions Fund (CDFI Fund), it can apply to the CDFI Fund for an allocation of NMTCs. Allocations are subject to an aggregate annual dollar limit, currently \$3.5 billion, and are made once a year.²⁹

CDEs sell tax credits in exchange for investors' equity investment in the CDE referred to as a qualified equity investment.³⁰ CDEs have five years to

26. *Id.*

27. *New Markets Tax Credit*, INTERNAL REVENUE SERVICE (May 2010), <http://www.irs.gov/businesses/article/0,,id=223578,00.html#2>.

28. *Id.*

29. *Treasury Announces 3.5 Billion in Awards for Economic Development and Community Revitalization*, STATES NEWS SERVICE, Feb. 24, 2011.

30. *New Markets Tax Credit*, *supra* note 27.

use or sell all of their tax credits.³¹ The investor receives a tax credit equal to five percent of the total amount paid for the capital investment or stock purchase over the first three years.³² For the final four years, the value of the tax credit is six percent annually.³³ In essence, then, investors receive tax credits over a seven-year period, and the tax credits amount to 39% of the equity investment in the CDE.³⁴ For example, if an investor invests \$1 million in a CDE, the investor receives tax credits totaling \$390,000 over seven years.

Businesses eligible to receive NMTC financing must be active and located in low-income communities as defined by NMTC regulations. Generally, a low-income community is defined as a census tract with a poverty rate of at least 20% or with a medium income of up to 80% of the area or statewide medium, whichever is greater.³⁵ A qualified, active, low-income community business must derive at least half of its gross income from business in the eligible area and must have a substantial portion (40%) of its tangible property located in the low-income community.³⁶ Finally, the business must perform a substantial portion (40%) of its services in any low-income community.³⁷

C. *EB-5 Visa for Immigrant Investors Program*

Created by the Immigration Act of 1990, the EB-5 Visa for Immigrant Investors program provides a method for obtaining a green card to foreign nationals who invest money in the United States that is strategically aimed at stimulating economic activity and job growth in America.³⁸ The foreign national is required to invest \$1 million, although the amount is reduced to \$500,000 if the investment is made in a rural or high unemployment area.³⁹ Ten or more new jobs must be created by the investment.⁴⁰ Under the EB-5 program, a two-year visa can be converted into a green card that provides permanent U.S. residency privileges to the investor, his spouse, and

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *The EB-5 Investment Visa*, THE EB-5 GREEN CARD INVESTMENT VISA, <http://www.eb5greencard.com/eb5visa/> (last visited Oct. 20, 2011).

39. *Id.*

40. *Id.*

children.⁴¹ After holding the green card for five years, the investor and his family are eligible for citizenship.⁴² EB-5 financing has most recently been utilized in the development of the Barclays Center in Brooklyn, New York.

Of the 10,000 EB-5 green cards available each year, 3000 are reserved for foreign nationals who invest through a Regional Center.⁴³ The EB-5 program does not require the foreign national to directly employ ten U.S. workers.⁴⁴ In fact, the individual receiving the visa is not required to actively manage the business in which he invested. Instead, it is enough if ten or more jobs will be created directly or indirectly as a result of the foreign national's investment.⁴⁵ The EB-5 Visa program has been renewed several times and is currently due to expire September 30, 2012.⁴⁶

Senators John Kerry (D-ME) and Richard Lugar (R-IN) introduced the Start Up Visa Act of 2010 in an effort to modify the existing EB-5 Visa Program.⁴⁷ The new Act would allow immigrant entrepreneurs who are creating new companies in the United States to secure a two-year EB-6 visa to come to the United States if investment capital is secured from a sponsoring U.S. venture capital or angel investor of at least \$250,000.⁴⁸ The person would become a permanent U.S. resident after two years if his or her start-up business has met one of three criteria: (1) created five full-time jobs in the United States, (2) raised an additional \$1 million from investors, or (3) achieved \$1 million in revenues.⁴⁹ The purpose, once again, of the EB-6 is to increase America's global competitiveness by creating a new magnet for innovations and innovators to come to the United States and create jobs.

D. Other Real Estate Incentives

Governmental units may provide other incentives, subsidies, and programs

41. *About EB-5*, EB-5 GREEN CARD VISA PROGRAM, <http://eb5central.com/about-eb5/> (last visited Oct. 20, 2011).

42. *Id.*

43. *Frequently Asked Questions*, EB-5 GREEN CARD VISA PROGRAM, <http://eb5central.com/eb5-faq/> (last visited Oct. 20, 2011).

44. *EB-5 Regional Center*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES (May 18, 2011), <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=2785a5f224a2e210VgnVCM100000082ca60aRCRD&vgnextchannel=2785a5f224a2e210VgnVCM10000082ca60aRCRD>.

45. *Id.*

46. *Id.*

47. Pei Kuo, *Interpreting the Startup Visa Act*, RIMON LAW GROUP (June 22, 2011), <http://www.rimonlaw.com/blog/2011/06/22/interpreting-the-startup-visa-act>.

48. *Id.*

49. *Id.*

such as debt financing, debt guarantees, credit enhancements, loan insurance, seed capital tax credits, freezing property taxes at predevelopment level for a predetermined period, grants, and tax abatement to add to the toolbox to incentivize the development of real estate. Moreover, the federal government can provide extra incentives through legislation such as the recently expired American Recovery and Reinvestment Act, which provided low-cost bond financing in the form of Build America Bonds, Recovery Zone Bonds, and Recovery Zone Facility Bonds.

II. CONCENTRIC CIRCLES

In the 1990s, we witnessed the redevelopment of downtown or near-downtown blighted areas with the construction of new state-of-the-art ballparks. The new stadiums that have been built in downtown or near-downtown areas have not only increased team revenue but have contributed to the economic growth of the surrounding neighborhoods. Sports facilities provide a greater economic impact when located in an urban area, which is more likely to be in need of infrastructure improvement and attract crowds due to the concentration of people in a central business district.⁵⁰ These impressions have led to the use of new sports and entertainment facilities as the main centerpieces for urban redevelopment. In many communities, the construction or renovation of a sports venue has created happenstance real estate and economic development surrounding the venue. The sports facility stimulates concentric circles of development surrounding the sports venue.⁵¹

Team owners and real estate developers realize the potential benefits of constructing a new facility and from developing the surrounding land. Because of developed and redeveloped sports facilities, blighted and inner city areas have turned into attractive gathering places for tourists and local citizens alike. A sports facility is created, and over time, the area around the facility develops into a popular destination place and entertainment district. These sports facilities become a staple of economic recovery, as the new facilities represent progress in dilapidated inner cities.⁵² The stadiums draw attention to the cities as areas of commerce and culture.⁵³ Therefore, sports facilities

50. Welch Suggs, *Suburban Fling is Ending as Arenas Return Downtown*, SPORTS BUS. DAILY (Apr. 27, 1998), <http://www.sportsbusinessdaily.com/Journal/Issues/1998/04/19980427/No-Topic-Name/Suburban-Fling-Is-Ending-As-Arenas-Return-Downtown.aspx>.

51. Greenberg, *supra* note 11, at 155.

52. Tim Chapin, *Investigating District and Sports Facility Synergy*, 6 (2000) (report prepared for CMC Heartland Partners for the Shops Area Project in Milwaukee, WI).

53. *Id.*

have become the most popular tool for urban revitalization.⁵⁴ The concept of concentric circles starts when the only real estate that is planned is the sports facility itself. Because of the number of people that come into the area, both on a permanent and nonpermanent basis, it only makes sense to develop support-type real estate, which may include housing, service-type establishments to support the housing, offices, other types of entertainment activities such as restaurants, movies and, of course, shopping.

The concept of concentric circles works because new sports facilities attract businesses to the neighborhoods surrounding the sports facility, which creates additional jobs and consumer spending. Additionally, sports facilities bring new crowds to a district and require upgraded physical investments such as widened roads and interchanges, pedestrian pathways, and parking garages.⁵⁵ These factors create an incentive for new hotels, restaurants, and businesses to move to a city, which serves to revitalize a city by creating more economic activity, even out of season.⁵⁶ The downtown areas then generate higher hotel occupancy, restaurant patronage, retail jobs, and city revenues as the fans can walk from the stadium to restaurants and bars to celebrate.⁵⁷ The districts themselves have become as much of an attraction as the events and facilities in the cities.⁵⁸

A downtown or near-downtown stadium, where the surrounding area is developed, benefits both the owner and the taxpayer. The use of a new sports facility specifically designed as the centerpiece for economic development makes the public funding of these facilities easier to swallow. When asked to help fund a new stadium, the taxpayers and public officials want something for their financial assistance. A stadium specifically designed to take advantage of the concentric circle effect can satisfy investors and taxpayers alike by attracting new businesses that will create additional jobs and consumer spending for the benefit of the community.

Some of America's deteriorating inner cities have provided the perfect testing ground. This has been especially true in cities with baseball stadiums. Three baseball stadiums in particular, opened in the 1990s, are properly considered to have spurred the trend of neighborhood economic development and revitalization through the development of a sports venue, namely: Camden Yards, home of the Baltimore Orioles (now known as Oriole Park at Camden

54. *Id.*

55. *Id.* at 7.

56. *Id.*

57. Lawrence O. Houstoun, Jr., *Sitting Stadiums for Fun and Profit*, available at <http://lhoustoun.wordpress.com/public-spaces/stadiums/>.

58. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 14, at 201.

Yards), opened in 1992; Jacobs Field, Home of the Cleveland Indians (now known as Progressive Field), opened in 1994; and Coors Field, home of the Colorado Rockies, opened in 1995. The concept was extended beyond baseball stadiums in 1999 with the development of the Staples Center, home of the Los Angeles Lakers and Los Angeles Clippers NBA franchises.

A. Camden Yards

In the 1980s, Baltimore's downtown, located on a historic seaport, experienced a dramatic renaissance and revitalization. A new convention center, the National Aquarium, and the Maryland Science Center attracted tourists and Baltimore residents to the downtown Inner Harbor neighborhood, which resulted in property values increasing and further new development occurring.⁵⁹ The downtown Inner Harbor neighborhood has become an iconic Baltimore Landmark and today is the destination of not only the afore-referenced centerpieces of development, but also the American Visionary Art Museum, Baltimore Museum of Industry, Geppi's Entertainment Museum, Port Discovery Children's Museum, and First Mariner Arena, to name a few.⁶⁰ More recently, the Inner Harbor neighborhood has seen the development of the Legg Mason Tower, Ritz Carlton residences, and Harbor View Pier homes.⁶¹

As a result, perhaps no city has garnered more attention and acclamation for its downtown revitalization and rehabilitation efforts than Baltimore, Maryland. "Baltimore 'is the town cities unabashedly seek to copy to revive their own decaying downtowns.'"⁶² The culmination and accumulation of these projects have helped to create a "tourist bubble" in which a well-defined perimeter separates the tourist space from the rest of the city.⁶³

59. *Community Development: Compatibility of Waste-to-Energy Projects*, WHEELABRATOR TECHS. INC., <http://wheelabratortechnologies.com/?LinkServID=F38DDE7B-5056-905C-36BC49EE0820D9F7&showMeta=0> (last visited Oct. 20, 2011).

60. *Baltimore's Inner Harbor: Shore Things*, ICW FACILITIES GUIDE, <http://www.icwfacilitiesguide.com/ME2/dirmod.asp?sid=C872B1F7A9AD47719F6661AFF137D958&nm=ICW+Side+Trips&type=Publishing&mod=Publications%3A%3AArticle&mid=B6194D771919466D93892A36D69B131F&tier=4&id=9C16E4322E56456E99D944CF6B3072CC> (last visited Oct. 20, 2011).

61. Edward Grunts, *Redrawing Downtown: Shift Adds Vibrancy Along Harbor, Vacancy in City Core*, BALT. SUN, July 7, 2009, at 1A.

62. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 14, at 197 (quoting Neal Peirce, *Is Baltimore Unique?*, BALT. MAG. 69 (Oct. 2000)).

63. Nick Bailey, *The Challenge and Response to Global Tourism in the Post-Modern Era: The Commodification, Reconfiguration and Mutual Transformation of Habana Vieja, Cuba*, 45 URB. STUDIES J. 1079, 1080 (2008), available at http://graduateinstitute.ch/webdav/site/developpement/shared/developpement/mdev/soutienauxcours0809/milbert_villes/Bailey%20Nick_08.pdf.

However, not all of downtown benefited from the Inner Harbor neighborhood revitalization. Much of the west side of downtown remained destitute, empty, and unsafe. Just fifteen years ago, Camden Yards was home to a warehouse district filled with a dilapidated rail yard, vacant buildings, and a few businesses.⁶⁴ The twin stadiums within the sports district, Camden Yards, home of the Baltimore Orioles, and M&T Bank Stadium, home of the Baltimore Ravens (formerly known as PSINet Stadium and then as Ravens Stadium), were conceived to address three primary goals: (1) to keep the Baltimore Orioles in Baltimore, Maryland; (2) to attract an NFL franchise to the city; and (3) to bring the Inner Harbor success further west to the Camden Yards area, which was considered the edge of town.⁶⁵

Construction began for the baseball stadium in 1989 and finished in 1992. Construction began for the football stadium in 1996 and was completed in 1998.⁶⁶ The stadiums encompass approximately 115 acres and were 95% publicly funded through a sports-themed state lottery game.⁶⁷ Initially, the neighborhood surrounding Camden Yards saw little economic development resulting from Camden Yards construction. In an interview, Laurie Feinberg, the Division Chief of the City of Baltimore Planning Department, indicated that with the exception of the renovation of the B&O Warehouse and the Camden Train Station, which now house offices, gift shops and restaurants, the area surrounding Camden Yards “saw no changes.”⁶⁸

However, by 2005, approximately thirteen years after the Baltimore Orioles Stadium opened its doors, some local development had occurred.⁶⁹ The Bromo Seltzer Arts Tower, a 100-year-old building, was transformed to house visual and literary artists.⁷⁰ The historic structure, completed in 1911, was at that time the tallest building in Baltimore and was modeled after Palazzo Vecchio in Florence, Italy.⁷¹ It is now listed on the National Register of Historic Places.⁷² The Sports Legends Museum at Camden Yards opened

64. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 14, at 197.

65. *Id.*

66. *Id.* at 196.

67. *Id.*

68. Interview by Robert Wagener with Laurie Feinberg, Division Chief of the City of Baltimore Planning Department (Feb. 14, 2011).

69. *Id.*

70. *Id.*

71. *Bromo Seltzer Tower Marks Centennial*, CBS BALT. (June 2, 2011), <http://baltimore.cbslocal.com/2011/06/02/bromo-seltzer-tower/>.

72. *Emerson Bromo-Seltzer Tower*, NAT'L PARK SERV., <http://www.nps.gov/nr/travel/baltimore/b17.htm> (last visited Oct. 20, 2011).

in 2005 and is housed in the former Camden Station.⁷³ The 22,000-square-foot museum is adjacent to the main gate of Oriole Park at Camden Yards and features exhibits profiling Maryland sports history.⁷⁴

The area has also seen a surge in residential and hotel development. Ground was broken in October of 2005 for the Zenith Apartments, a 21-story building including 191 apartments and 6000 square feet of retail space at the corner of West Pratt and South Paca Streets.⁷⁵ Rombro Lofts, located at 22 Howard Street, contains seventeen loft condo units in a historic six-story warehouse building.⁷⁶ During this period, the Camden Yards area also witnessed the development of Camden Court Apartments.⁷⁷ The 757-room Hilton Baltimore, opened in 2008, was built on two vacant blocks that are north of Oriole Park at Camden Yards and west of the Baltimore Convention Center.⁷⁸ In addition, hotels in close proximity to the Ballpark at Camden Yards have been recently renovated, including the Baltimore Marriott Inn Harbor at Camden Yards renovated in 2007, Sheraton Inner Harbor Hotel renovated in 2007, Radisson Plaza Lord Baltimore renovated in 2008, and the Hyatt Regency Baltimore renovated in 2009, to name a few.⁷⁹

In assessing Camden Yards in the context of concentric circles, it has “experienced some success as an urban redevelopment catalyst.”⁸⁰ Baltimore already had an entertainment district, the Inner Harbor, which flourished as a catalyst for redevelopment long before the two stadiums were built. “Camden Yards did not create the success that is Inner Harbor; it simply incorporated roughly 20 formerly industrial blocks into the postmodern tourist economy.”⁸¹

While the public investment created two stadiums, maintained the team in town, and gave new life to the warehouse at Camden Station, the Camden yards sports complex did not in and of itself spark a drastic transformation of

73. *History of the Sports Legends Museum and Camden Station*, BABE RUTH BIRTHPLACE AND SPORTS LEGENDS MUSEUMS, <http://www.baberuthmuseum.com/history/slmacy/> (last visited Oct. 20, 2011).

74. *Id.*

75. Heather Harlan, *The Shovels Finally Show Up for \$46M Zenith*, BALT. BUS. J. (Oct. 6, 2005), <http://www.bizjournals.com/baltimore/stories/2005/10/03/daily34.html>.

76. Edward Gunts, *Rombro Building to be Converted Into Condos*, BALT. SUN, Aug. 8, 2005, at 1C.

77. *Westside Initiative*, BALT. DEV. CORP., <http://www.baltimoredevelopment.com/westside-initiative> (last updated July 6, 2010).

78. J.J. McCoy, *Baltimore's Best*, WASH. POST, Aug. 20, 1998, at T4.

79. MARY K. TILGHMAN & ELIZABETH A. EVITTS, *INSIDERS' GUIDE TO BALTIMORE* 82–88 (2008).

80. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 14, at 201.

81. *Id.*

the western edge of downtown.⁸² It was successful at expanding the tourist bubble to the west, but little development carried over into the neighboring areas that were in desperate need of economic stimulus.⁸³ Therefore, the economic impact of Camden Yards may be only an extension of the Inner Harbor, and Baltimore may have only enough entertainment demand to sustain one entertainment district.⁸⁴

There are also demographic features about the location of the two Camden Yards stadiums that could have prevented a surge in real estate and economic development. The stadiums are located in two historic neighborhoods in west downtown that did not need or desire new development.⁸⁵ To the south of the stadiums is the elevated freeway, I-95, which offers easy access to the stadiums, but further separates the stadiums from the remainder of the city. Finally, the immediate vicinity of Camden Yards is filled mostly by surface parking to fill the need to sustain the entertainment nature of the two stadiums.⁸⁶ It should be noted that a 1997 Request for Proposal from the Maryland Stadium Authority and the City of Baltimore for an entertainment-oriented project to be sited on the parking lots between the two entertainment venues was opposed by the Baltimore Orioles.⁸⁷

The Inner Harbor and West Downtown neighborhoods continue to excite the imagination. The Baltimore Grand Prix, part of the Izod Indy Car Series, debuted along a 2-mile downtown track in September 2011, drew more than 75,000 people during its inaugural weekend, and is expected to generate \$11 million in direct city tax revenue.⁸⁸ Baltimore Racing Development, the promoter of the Baltimore Grand Prix, signed a five-year lease at the B&O Warehouse.⁸⁹ In addition there are preliminary plans to expand the Baltimore Convention Center and build a new arena next to it. The cost would range between \$750 million and \$930 million and would take 6.5 to 7 years to build, i.e. one of the most expensive construction projects ever undertaken in the city of Baltimore.⁹⁰ The cost estimate includes a 4-level, 400,000-square-foot convention center expansion, an 18,500-seat arena with a 2-level, 500-space

82. *Id.* at 199.

83. *Id.* at 201.

84. *Id.* at 199.

85. *Id.* at 201.

86. *Id.* at 199.

87. *Id.* at 201.

88. Mike Tanier, *Amid a Large City, a Noisy Racing Village*, N.Y. TIMES, Sept. 4, 2011, at 4.

89. Ryan Sharrow, *Baltimore Racing Development Inks Lease in B&O Warehouse*, BALT. BUS. J. (Aug. 3, 2010), <http://www.bizjournals.com/baltimore/stories/2010/08/02/daily19.html>.

90. Edward Gunts, *Details of Arena Project Emerge, Combined Sports Facility and Convention Center Could Cost Nearly \$1 Billion*, BALT. SUN, Dec. 17, 2010, at 1A.

garage beneath it, and a 500-room Sheraton Hotel rising 23 to 25 stories.⁹¹

B. Jacobs Field

The second example of concentric circles occurred in Cleveland, Ohio, with the creation of Jacobs Field (now Progressive Field), home of the Cleveland Indians, and Gund Arena (now Quicken Loans Arena), home of the Cleveland Cavaliers. The ballpark and arena were the first sport facilities in the United States to be constructed simultaneously at the same general location, i.e. the Gateway District.⁹²

The Gateway District was originally a produce and meat market known as the Central Market area from 1857 until the 1970s.⁹³ The area was dubbed the Gateway District because it was constructed just north of a confluence of interstates that provides major entrances (or gateways) into downtown Cleveland.⁹⁴ The Gateway area had begun to decline after World War II, and by the 1980s, many buildings were either dilapidated or torn down to make way for surface parking lots.⁹⁵ The Gateway District was meant to fill the gap between the city's successful theater district, Playhouse Square, and the Tower City shopping and office complex.⁹⁶ Jacobs Field was part of a \$467 million initiative that also included a basketball arena, office buildings, and improved district connections to a nearby train station and other activity centers.⁹⁷ The two sport complexes are connected to the Tower City Center and the RTA Rapid Transit System via an underground walkway.⁹⁸

Construction began in 1991, finished in 1994, and involved approximately twenty-eight acres.⁹⁹ Seventy-five percent of the total cost was borne through public funding, which was a tax on cigarettes and liquor.¹⁰⁰ The push for redevelopment of Gateway came from Cleveland Tomorrow, a downtown

91. *Id.*

92. *Quicken Loans Arena*, NBA BASKETBALL ARENAS, <http://www.nbabasketballarenas.com/Quicken-Loans-Arena.htm> (last visited Oct. 20, 2011).

93. BAY AREA ECONOMICS, NEIGHBORHOOD ECONOMIC IMPACTS OF THE PROPOSED SAN JOSE STADIUM, SAN JOSE REDEVELOPMENT AGENCY 8, Nov. 2006, *available at* <http://www.sjredevelopment.org/ballpark/SJStadiumReportfinal.pdf>.

94. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 14, at 202.

95. *Id.*

96. *Id.*

97. BAY AREA ECONOMICS, *supra* note 93, at 8.

98. *Quicken Loans Arena*, BALLPARKS BY MUNSEY AND SUPPES, <http://basketball.ballparks.com/NBA/ClevelandCavaliers/index.htm> (last visited Oct. 20, 2011).

99. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 14, at 196.

100. *Id.*

development group.¹⁰¹ Additionally a development corporation was formed, the Historic Gateway Neighborhood (originally the Gateway Economic Development Corporation), with the goal of promoting redevelopment in the Gateway District.¹⁰²

The change caused by the development of the Gateway complex was drastic:

Formerly vacant buildings have been renovated as market-rate housing, bringing upper-middle-class residents to this portion of the city for the first time in decades. A total of seven residential projects, with a combined total of over 800 units, have been opened in the district since 1994, with almost an equal number of units currently in the planning stages. Included in these renovations are a number of historic and architecturally significant structures (including the old Statler Hotel and the Osborn Building). Buildings have been reused for retail spaces as well. New restaurants have been carved out of other formerly vacant properties.¹⁰³

Additionally, several large new hotels have found homes in the Gateway district in historic, underutilized buildings.¹⁰⁴ New upscale hotels built in Cleveland's historic shopping arcades have helped catalyze redevelopment.¹⁰⁵ A hotel has been utilized to renovate an old warehouse adjacent to the Gateway District and the historic National City Bank Building.¹⁰⁶ Moreover, the Colonial Marketplace project includes not only a hotel but also a retail and office space across seven buildings.¹⁰⁷

Though the Gateway District is aging, new businesses continue to be developed. Recent developments include a casino proposed by Dan Gilbert, owner of the Cleveland Cavaliers.¹⁰⁸ Another is a new arcade located underneath the Hyatt Hotel downtown.¹⁰⁹ Additionally, the Med Mart Convention Center is being constructed nearby on the corner of St. Clair

101. *Id.* at 202.

102. *Id.*

103. *Id.* at 203–04.

104. *Id.* at 204.

105. *Id.*

106. *Id.*

107. *Id.*

108. Interview by Robert Wagener with Thomas Starinsky, Associate Director of the Historic Gateway Neighborhood Corporation (Feb. 11, 2011).

109. *Id.*

Avenue and Ontario Street.¹¹⁰ Most of the other recent developments are restaurants and bars, including a House of Blues, Lola's, LaStrada, Wonder Bar, and Greenhouse Tavern.¹¹¹

In 1997, the assessed value of the total downtown property of Cleveland dropped 1.7% from 1996.¹¹² However, the assessed value of properties within the three-block radius surrounding Progressive Field actually increased.¹¹³ For example, twelve of the hotels in the area increased in value, one remained stagnant, and only one lost value.¹¹⁴ Additionally, of the eight entertainment properties that existed in 1997, none of the properties lost value from the previous year, and in fact, increased an average of 68%.¹¹⁵ Finally, the residential properties showed an increase as well. Although smaller—at 3.5%—the increase further showed the viability of the area.¹¹⁶

After 1997, there was a rise in assessed property value throughout downtown Cleveland.¹¹⁷ The assessed values rose 2.3%, 3.2%, and 38.8% respectively. However, there was an even greater increase in the three-block radius surrounding Progressive Field.¹¹⁸ In fact, the hotel properties increased an average of 206% between 1998 and 2000, and only one of the hotels decreased in assessed value, and even then it lost only 7%.¹¹⁹ On the other hand, the entertainment properties increased an average of 413% and the residential properties averaged a 45% increase during such period.¹²⁰

Conversely, the city of Cleveland faced dramatic decreases in assessed value in 2000 through 2003.¹²¹ The downtown properties showed a 19.7% drop in assessed value in 2001; however, the properties around Progressive Field continued to increase.¹²² For example, commercial business properties increased 20%, residential properties increased 55%, and hotel properties increased 91%.¹²³ The entertainment properties were the only properties to

110. *Id.*

111. *Id.*

112. Interview by Doug Fuglsang with Jim Hopkins, Cleveland Assessor's Office (June 10, 2010).

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

see a decrease, but this was slight at two percent.¹²⁴ However, from 2003 through 2007, the assessed value for the commercial businesses, residential properties, entertainment properties, and hotel properties all increased.¹²⁵ Even during the recession, Progressive Field positively impacted the area.¹²⁶ Although the hotel and residential properties decreased slightly, in the three-block radius surrounding the stadium, the commercial business properties increased 8.5% and the entertainment properties increased 2%.¹²⁷ Robert Brown, Director of the City Planning Commission of Cleveland praised the development:

A key factor in the success of Cleveland's sports facilities in helping to revive downtown is the fact that both the stadium and arena are located in heart of downtown and are not segregated in some sports island on the periphery of downtown. This location in the core of downtown, right on the downtown street grid, has helped to maximize the spin-off traffic to nearby businesses.¹²⁸

Therefore, by strategically planning the development of the Gateway District, the City of Cleveland has transformed a formerly dilapidated district into a lucrative regional tourist destination and economic engine for the city.

C. Coors Field

Coors Field, home of the Colorado Rockies, completes the trilogy of baseball stadiums that have been characteristic of the concept of concentric circles. Ground for the baseball stadium was broken in 1992 and opened on April 26, 1995.¹²⁹ The 50,445-seat, \$215 million stadium was located at the northern edge of the Denver central business district, commonly referred to as Denver's Lower Downtown (LoDo), a 25-square block section of downtown Denver that was designated a historic district in 1988.¹³⁰ However, prior to the construction of Coors Field, LoDo was described as a "double-ugly" strip

124. *Id.*

125. *Id.*

126. *Id.*

127. *Id.*

128. Interview by Robert Wagener with Robert Brown, Director of the City Planning Commission of Cleveland (Feb. 8, 2011).

129. *Coors Field*, BALLPARKSOFBASEBALL.COM, <http://www.ballparksofbaseball.com/nl/CoorsField.htm> (last visited Oct. 20, 2011).

130. *Id.*

of dilapidated 1930 warehouses and industrial buildings.¹³¹ LoDo was considered one of the most blighted areas in the Denver downtown area.¹³² At the time of planning the sports facility, many politicians and planners were worried that suburbanites would not venture into this part of downtown Denver.¹³³ Not only have the Rockies set attendance records, but the Cincinnati Post described the area as a “sparkling symbol of urban hipness.”¹³⁴

The Coors Field project was funded by a \$162 million six-county Denver Metropolitan Area ballot initiative.¹³⁵ In addition, money was spent to insure access and pedestrian connections to the area. “The announcement in 1991 that Coors Field would be located in LoDo gave the neighborhood another boost. Sales tax revenue in LoDo increased by 22 percent a year from 1990 to 1995, and the number of restaurants increased 140 percent between 1993 and 1996.”¹³⁶

“However, the pace of change increased dramatically after the stadium opened” in 1995 as evidenced by the increase in LoDo residential units from 270 in 1994 to 1374 by 2000.¹³⁷ Similarly, “[h]otel occupancy rates rose from 66 percent in 1994 to 70 percent each subsequent year” despite the fact that room rates rose continuously.¹³⁸ Moreover, “the total number of rooms in downtown grew 25 percent from 1995 to 2000.”¹³⁹ Sales tax revenue also increased; “[i]n 1995, sales tax collections rose by 86 percent to \$4.7 million. . . . Even in the off season, few stores have closed, with new development continuing year round. While Coors Field cannot take all the credit for these recent neighborhood improvements, it does appear that the stadium has been an integral part of LoDo’s turnaround.”¹⁴⁰

D. Staples Center

Concentric circles works with any sports facility, not just a baseball stadium. In fact, the Staples Center has revitalized a downtown area in Los

131. Parke M. Chapman, *Arena-Led Urban Revivals*, NATIONAL REAL ESTATE INVESTORS (Nov. 1, 2006), http://nreionline.com/property/mixed_use/real_estate_arenaled_urban_revivals/.

132. *Id.*

133. *Id.*

134. BAY AREA ECONOMICS, *supra* note 93, at 10.

135. *Id.*

136. *Id.* at 10–11.

137. *Id.* at 11.

138. *Id.*

139. *Id.*

140. *Id.*

Angeles. In the early 1990s, the area surrounding the Staples Center was filled with gangs, drugs and dilapidated buildings.¹⁴¹ The Staples Center was opened on October 17, 1999 by the L.A. Arena Company and Anschutz Entertainment Group.¹⁴² The ten-acre facility cost approximately \$375 million and was largely privately financed.¹⁴³ The facility is a multi-purpose sports arena that is located adjacent to the Los Angeles Convention Center. Beyond hosting two NBA teams, an NHL team, and a WNBA franchise, the Staples Center is host to approximately 250 events and nearly four million visitors a year.¹⁴⁴

[The] Staples Center continues to distinguish itself as the host of major, high-profile events of national and international distinction, including the 2004 and 2011 NBA All-Star Game, the 2002 NHL All-Star Game, the 2000 Democratic National Convention, eleven Grammy Award shows as well as the annual X-Game competitions and PAC-10 basketball championship tournaments.¹⁴⁵

While the Staples Center provides a shining example on how a sports facility can create momentum for urban development, L.A. Live has helped make this area of Los Angeles one of the foremost destination places for sports and entertainment. Adjacent to the Staples Center, L.A. Live is the premier entertainment complex in downtown Los Angeles. At a cost of approximately \$2.5 billion, L.A. Live was developed by Anschutz Entertainment Group, Wachovia Group, and McFarland Partners.¹⁴⁶ Its 27-acre site features 5.6 million square feet of apartments, ballrooms, bars, concerts, theaters, restaurants, movie theaters, and a 54-story hotel and condominium tower.¹⁴⁷

Construction of L.A. Live was conducted in three phases. The first phase

141. Don Muret, *Staples Becomes a Beacon for Urban Renewal*, SPORTS BUS. DAILY (Aug. 3, 2009), <http://www.sportsbusinessdaily.com/Journal/Issues/2009/08/20090803/SBJ-In-Depth/Staples-Becomes-A-Beacon-For-Urban-Renewal.aspx>.

142. *Staples Center*, BALLPARKS BY MUNSEY AND SUPPES, <http://basketball.ballparks.com/NBA/LosAngelesLakers/newindex.htm> (last visited Oct. 20, 2011).

143. *Id.*

144. *Staples Center*, AEG, <http://aegworldwide.com/facilities/arenas/staplescenter> (last visited Oct. 20, 2011).

145. *About Staples Center*, STAPLES CENTER, <http://www.staplescenter.com/doublecol.php?section=about&page=aboutstaplescenter> (last visited Oct. 20, 2011).

146. Roger Vincent, *Downtown Project to Get Really 'Live,'* L.A. TIMES, June 1, 2007, at C1.

147. *Recreation*, L.A. LIVE, <http://www.lalivemarriott.com/LA-Live-Entertainment/Recreation-5.html> (last visited Oct. 20, 2011); *Frequently Asked Questions*, L.A. LIVE, <http://lalive.com/faq> (last visited Oct. 20, 2011).

opened on October 18, 2007, and included a 7,100-seat Nokia Theater, a concert and awards show venue, and Nokia Plaza, a 40,000-square-foot open space featuring six, seventy-five-foot towers with LED signage.¹⁴⁸ The second phase of L.A. Live began in 2008 and included ESPN studios, the Grammy Museum, Club Nokia (a 2,300 person club and live music venue), Lucky Strike bowling alley, the Conga Room, and thirteen eateries.¹⁴⁹ Phase three of L.A. Live included a fifty-four-story hybrid tower constructed above the parking lot directly north of Staples Center that houses the JW Marriott, Ritz-Carlton Hotel, and Ritz-Carlton Residences at L.A. Live.¹⁵⁰ Phase three also included the fourteen-screen, \$100 million Regal Entertainment Group movie complex.

Ten years after the grand opening of the Staples Center there has been \$5 billion worth of development in the four block radius of the arena, half of which was generated by L.A. Live.¹⁵¹ Much of the economic growth can be attributed to a dramatic growth of the area's residential market. When construction of the Staples Center began, the district was home to 5,000 residents, but today the same area is home to almost 50,000 residents. Tim Leiweke, president and CEO of Anschutz Entertainment Group (AEG) explained the transformation:

Staples Center has not only been the catalyst for development, it's been the catalyst for making this a true, livable downtown community. . . . Ironically, in our industry, we always hear from the politicians and professors about how sports facilities ultimately don't create any economic rejuvenation. . . . The fact [that] there is \$5 billion worth of bricks and steel and glass proves that is not accurate.¹⁵²

In October 2010, the L.A. Live complex was honored as one of five worldwide winners of the Urban Land Institute's Global Awards for Excellence competition honoring the world's finest achievements in land-use practices.¹⁵³

Development of L.A. Live was also important for highlighting the

148. L.A. Live, *Frequently Asked Questions*, *supra* note 147.

149. *Id.*

150. *Id.*

151. Muret, *supra* note 141.

152. *Id.*

153. *Anschutz's L.A. Live Complex Wins Global Urban Land Institute Honors*, BUS. JOURNALS (Oct. 19, 2010), <http://www.bizjournals.com/denver/news/2010/10/19/la-live.html>.

necessity of ensuring that a multi-use stadium district development provide local benefits. Development of L.A. Live incorporated a Community Benefits Agreement (CBA), which were first utilized in California beginning in 1997.¹⁵⁴ A CBA is a contract usually entered into by community-based organizations, a private real estate developer, a public official, and local government agencies that defines specific benefits, amenities and mitigations, or only mitigations to the local community or neighborhood guaranteed by the developer as a result of the planned development.¹⁵⁵ In exchange for the promised benefits, the community groups who normally would oppose development subsidization agree to publicly support the project or at least not openly oppose it.¹⁵⁶ Normally, a development project involves the creation of a development agreement, which is basically an agreement between the government unit and the developer that provides for a completed development for some form of taxpayer subsidy. CBAs permit community groups to become active partners in the process at the forefront and to receive benefits and protect the community as a result of the agreed-upon development.

The most well-known and probably one of the most successful CBAs is that created in 2001 for the L.A. Sports and Entertainment District adjacent to Staples Center in Los Angeles, California, wherein the public subsidies were to approximate \$150 million. Some of the provisions contained in the Staples Center CBA include: \$1,000,000 for the creation or improvement of parks and recreational facilities; \$25,000 per year for a term of five years for the creation of a residential parking permit program; agreement to comply with the city's living wage ordinance and to make all reasonable efforts to reach the goal of ensuring that 70% of the jobs created by the project pay a living wage; priority hiring to persons displaced by the project and to low income individuals residing within three miles of the project; job training programs; a requirement that 20% of the residential units in the project be affordable; and an agreement to cooperate with the coalition to establish an advisory committee to assist with the implementation and enforcement of the agreement.¹⁵⁷ CBAs have recently been used in other sports developments including Yankee Stadium, Pittsburgh Penguin Arena, Atlantic Yards, the 2010 Vancouver Winter Olympics, and Ballpark Village in San Diego.

154. Naved Sheikh, *Community Benefits Agreements: Can Private Contracts Replace Public Responsibility?*, 18 CORNELL J. L. & PUB. POL'Y 223, 228 (2008).

155. *Id.* at 224.

156. *Id.*

157. LOS ANGELES SPORTS AND ENTERTAINMENT DISTRICT PROJECT COMMUNITY BENEFITS AGREEMENT, available at <http://www.saje.net/atf/cf/%7B493B2790-DD4E-4ED0-8F4E-C78E8F3A7561%7D/communitybenefits.pdf> (last visited Nov. 6, 2011).

III. SPORTS.COMM

Given the rippling effect of real estate development as a result of the creation of a sports venue, it was only a matter of time before professional sports owners, governmental units, and real estate developers began cooperating to form sports and entertainment destinations near or adjacent to the sports venue on a pre-planned basis. Using the examples of stadiums that have transformed their city into a sports and entertainment destination such as Camden Yards, Cleveland Gateway, and LoDo, developers have sought to consolidate the business and entertainment needs of a community at professional sports venues. The result has been the creation of a new type of collaborative relationship between privately-owned sports teams and local governments with both parties working towards the common goal of constructing a master-planned sports and entertainment community, or sports.comm.

For a sports.comm to be successful, the venue, team owners, and the community must work together beginning at the planning stages of development. Local governments are necessary to identify the type of land uses that would be appropriate for a district, to provide the infrastructure needed to support the sports.comm, and to obtain the permits required to begin construction. A sports.comm can support an almost limitless array of retail, residential, recreational, and business facilities; therefore, each venue can be tailored to meet the specific needs of its community. Common structures include shopping centers, restaurants, sports bars, condominiums, offices, apartments, hotels, movie theaters, museums, “green space” public areas, and parking structures.

A sports.comm is essentially a joint venture between a government unit or units and a sports team in conjunction with a real estate developer or solely a real estate developer. The success of the sports.comm will be dependent upon a number of factors including, but not limited to: the location of the development, an agreed-upon master plan acceptable to the community, market timing, financial staying power of the developer, ability to control construction costs and schedules, an absence of legal challenges, a properly marketed and targeted development, a well-conceived and sustainable financial package, effective management control, a healthy economy where expansion is occurring, an ability for all parties to compromise, and good old-fashioned luck.

A sports.comm, like any other real estate development, involves a multitude of targeted tasks to achieve the ultimate goal, which may include, but are not limited to: determining development concept; site selection; zoning approvals; meetings with local officials; neighborhood groups and planning

boards; land acquisition and site assemblage; title searches; comprehensive project studies such as soil, geotechnical, and environmental and wetland testing; construction cost analysis; market study; site schematics; pro formas; the lender package; marketing and leasing strategy; compliance with land use policies; traffic issues; green issues; scheduling; and market feasibility analysis.

The basic goal of a sports.comm is to transform a sports venue that attracts millions of people, but is only used on a limited basis, into a year-round entertainment destination for an entire region. The sports.comm has been especially popular in the professional sports context because league revenue-sharing rules have made sports venues the most useful generator of nonshared revenues for team owners. Every professional sports league requires its members to share some portion of its ticket sales and media revenues with rival teams.¹⁵⁸ Therefore, modern team owners have placed a greater emphasis on generating revenues from personal seat licenses, stadium naming rights, local media contracts, luxury suites, in-stadium advertising, and sponsorships.¹⁵⁹ The stadium itself was generally considered to be a limited source of nonshared revenues based on its maximum occupancy of up to 100,000 spectators. However, the sports.comm concept has served to expand the definition of the sports venue to include an entertainment district, which has allowed team owners to capture and convert its fans' auxiliary entertainment dollars into a new source of nonshared revenues.

Examples of successfully completed sports.comms include Patriot Place, home of the New England Patriots; Nationwide Arena, home of the Columbus Blue Jackets; and Ballpark Village, home of the San Diego Padres. The sports.comm is most often associated with professional sports venues; however, the beneficial economic impact of a sports.comm can be realized on both a smaller and larger scale. Minor league venues such as Victory Field in Indianapolis attract smaller crowds but are more family-friendly and affordable, which allows fans to spend more at surrounding retailers. The concept has most recently led to the creation of college sports villages with schools such as Florida Atlantic University, the University of Nevada-Las Vegas, the Ohio State University, and the University of Notre Dame, with each school applying the elements of a sports.comm to their venues. In contrast, the sports.comm has also been applied on an international scale in an attempt to form a sports and entertainment destination capable of attracting a global market, which is most recently exemplified by developments in Dubai and Qatar. Together, these successful developments demonstrate the potential

158. JAMES HUMPHREY, *ISSUES IN CONTEMPORARY ATHLETICS* 74 (2007).

159. *Id.*

of a sports.comm to serve as an economic catalyst for a community regardless of its market size or location.

A. Patriot Place

The modern sports.comm can be traced to Robert Kraft's (Kraft) decision to keep the New England Patriots in Massachusetts in 1999. Kraft's attempt at creating a sports.comm began in 1993 when he proposed moving the Patriots from Foxborough, Massachusetts, into a new \$1 billion stadium attached to a convention center in South Boston.¹⁶⁰ In his initial proposal, Kraft pledged a \$215 million private contribution with the rest of the costs provided by the state.¹⁶¹ The mayor of Boston refused Kraft's initial plan because it required the city to contribute a portion of its hotel tax revenues, even though those revenues stood to increase greatly with the presence of a new stadium and convention center.¹⁶² The state government also refused to offer bond financing based on criticism that such an extensive bond offering would overburden the government, which would require the reprioritizing of other public works projects like prisons, bridges, and public housing.¹⁶³

A University of Massachusetts professor summarized the city's problem succinctly, "There's a tension between the role a facility like this plays in strengthening a city's identity and all these new pressures. . . . Like a lot of cities, Boston was going through an identity crisis. The difficulty in building a consensus for these kind[s] of showcase facilities mirrors that crisis."¹⁶⁴ The City of Boston simply did not understand the potential benefits a sports.comm could provide in the early 1990s, so Kraft was forced to look elsewhere to build a new facility.

Next, Kraft attempted to secure public assistance to build a new stadium in Foxborough, the site of the Patriots original stadium that was built in 1971 for a total cost of \$6.7 million.¹⁶⁵ The proposal required the State of Massachusetts to contribute \$57 million in infrastructure improvements, to buy the land upon which the stadium would be built, and to lease the land back to the Patriots.¹⁶⁶ The government rejected even this minimal allocation of

160. Meg Vaillancourt & Peter Canellos, *Clashing Agendas Undid the Megaplex; A Revival Depends on Compromises*, BOS. GLOBE, Nov. 6, 1995, at 1.

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. Brian Adams, Note, *Stadium Funding in Massachusetts: Has the Commonwealth Found the Balance in Private vs. Public Spending*, 51 CATH. U.L. REV. 655, 657 (2002).

166. *Id.* at 659.

public financing, and the Patriots were forced to expand their search beyond Massachusetts.

In 1998, Kraft accepted a proposal from Hartford, Connecticut in which the state agreed to completely fund the \$374 million cost of a new stadium and to build additional facilities as part of an urban renewal project.¹⁶⁷ Despite finding a city that was willing to cooperate in building his sports.com, Kraft abruptly exercised an opt-out clause in his contract with Hartford and decided to keep the team in Massachusetts.¹⁶⁸ Based on his decision, the Massachusetts Legislature agreed to extend public financing for infrastructure improvements to the Foxborough site, but held firm on its refusal to purchase the land for a new stadium.¹⁶⁹ Therefore, as one of the few visionaries that understood the potential of the sports.com, Kraft decided to privately finance the \$325 million cost of Gillette Stadium in 2000 and the \$350 million cost of Patriot Place in 2006.¹⁷⁰

The purpose of Patriot Place was to construct “a self-sustaining, super-regional destination” on the 1.3 million-square-foot area surrounding Gillette Stadium.¹⁷¹ As evidence of the necessity for a private-public partnership to construct a sports.com, the first hurdle was to obtain the necessary state land use permits. In order to allow for the construction of a mixed-use sports and entertainment facility, Foxborough’s zoning rules had to be revised.¹⁷² The Patriots also needed to obtain approval from the city to manage traffic and to receive liquor licenses for the various restaurants to be built on the site.¹⁷³ In total, Kraft spent over six months working to obtain the necessary approvals in order to begin construction.¹⁷⁴

Following approvals, Kraft’s implementation of the design for Patriot Place set the standard for the modern sports.com by incorporating retail and recreational options that had been traditionally underserved in the New England region. Patriot Place was an immediate success based on Kraft’s decision to anchor his entertainment venue with New England’s first Bass Pro

167. *Id.*

168. William D. Cohan, *Football’s True Patriot*, CNNMONEY (Nov. 3, 2010), <http://features.blogs.fortune.cnn.com/2010/11/03/footballs-true-patriot/>.

169. Adams, *supra* note 165, at 659–60.

170. Jenn Abelson, *Krafts Hope to Build a \$350m Patriot Place Complex, and a Legacy*, BOS. GLOBE, May 20, 2007, at A1.

171. Greg Gatlin, *Patriot Place to Open as Construction Drive Continues*, BOS. HERALD, Nov. 1, 2007, at 25.

172. Robert Preer, *Patriots Owner Aims to Develop a ‘Destination’; Kraft Envisions Turning Parking Lots into a Massive Retail Entertainment Complex*, BOS. GLOBE, July 29, 2006, at E28.

173. *Id.*

174. *Id.*

Shops. Bass Pro Shops is a unique destination retailer that acts as both a store and an entertainment venue; complete with indoor waterfalls, fish ponds, live animals, and indoor shooting ranges.¹⁷⁵ The largest Bass Pro Shops in Springfield, Missouri attracts four million visitors a year and is the state's number one tourist attraction.¹⁷⁶ Similarly, the store at Patriot Place was an immediate success, drawing over 60,000 shoppers in its first five days. Due to the scarcity of Bass Pro Shops in the Northeast, the store expected to attract customers from up to 500 miles away.¹⁷⁷ Despite the popularity of Bass Pro Shops, Kraft purposely tried to avoid the "man mall" moniker that has been used to describe Patriot Place since its early stages of development by selecting other retail and entertainment options meant to attract women and families.

Kraft was able to broaden the appeal of Patriot Place by incorporating traditional retailers, a wide variety of restaurants, and a multitude of entertainment options. Like a traditional mall, Patriot Place includes retailers such as Hollister, Old Navy, Bath and Body Works, and Victoria's Secret.¹⁷⁸ Most recently, Tech Superpowers announced the opening of its flagship retail store at Patriot Place, which is a new retail concept that combines over a dozen technology brands under the same roof, including Apple.¹⁷⁹ Moreover, it includes dining options for every price point to ensure that all visitors are satisfied.¹⁸⁰ Most notably, Patriot Place includes a CBS-themed restaurant called "CBS Scene" and Toby Keith's famous "I Love This Bar and Grill."¹⁸¹

Beyond shopping and affordable dining, Patriot Place offers a multitude of family-friendly entertainment options. The Showcase Cinema de Lux provides visitors much more than the traditional movie theater experience. It offers standard tickets, but also, for a \$10 upgrade, leather seating, a server, and access to the "Lux Level" bar and lounge.¹⁸² Understanding that movie theaters are slowly becoming extinct, the purpose of the Cinema de Lux is to

175. Steve Bailey, *New Role for Krafts: Developers*, BOS. GLOBE, Jan. 25, 2006, at F1.

176. *America's Largest Private Companies: #96 Bass Pro Shops*, FORBES (Nov. 3, 2010), http://www.forbes.com/lists/2010/21/private-companies-10_Bass-Pro-Shops_ISAK.html.

177. Robert Preer, *Patriots Officials Have Game Plan to Handle Football Fans*, BOS. GLOBE, Nov. 25, 2007, at 5.

178. *Shopping*, PATRIOT PLACE, <http://www.patriot-place.com/shopping.aspx> (last visited Oct. 20, 2011).

179. *Tech Superpowers Opening Flagship Retail Store at Patriot Place*, PATRIOT PLACE (June 20, 2011), <http://www.patriotplacefoxboro.net/article.aspx?id=4079>.

180. Gatlin, *supra* note 171.

181. *Dining*, PATRIOT PLACE, <http://www.patriot-place.com/dining.aspx> (last visited Oct. 20, 2011).

182. Angel Jennings, *Top Movie Ticket Puts You Far Beyond the Cheap Seats*, BOS. GLOBE, Aug. 6, 2008, at C1.

attract people to the theater by offering something for everyone, even if they do not intend to see a movie. Patriot Place also includes Showcase Live, an intimate two-story, 500-seat concert venue. Patriot Place has also opened two new interactive games called “Espionage” and “20,000 Leagues Under the Sea,” which are designed to make visitors feel like they are inside a real video game.¹⁸³ The games are aimed at drawing families, but are also utilized for corporate team-building excursions.¹⁸⁴

To further cater to families and to provide accommodations for visitors from far and wide, Patriot Place includes a museum, hotel and spa, and health care center. The Hall at Patriot Place is the focal point of the development and includes a state-of-the-art museum that utilizes video and audio technology to help fans experience the history of New England football.¹⁸⁵ To provide accommodations to visitors, the facility features a four-star Renaissance Hotel & Spa.¹⁸⁶ Hotels, condominiums, and apartment complexes are essential to the success of a sports.com because they naturally instill a sense of community that benefits the entire venue. Surprisingly, Patriot Place also includes Brigham and Women’s/Mass General Health Care Center located next to the stadium, which provides outpatient care and some surgical services to the Foxborough area.¹⁸⁷ The inclusion of the Health Care Center reflects the true purpose of a sports.com, to benefit the local community.

Patriot Place was truly ahead of its time, but reflects the important aspects of the sports.com concept. Kraft was successful in making Foxborough, Massachusetts a retail destination for all of New England, which benefited him personally, and in turn, the entire business community of Foxborough. Therefore, Patriot Place is proof of the potential for a sports.com to transform a city from an afterthought into a tourist destination.

B Nationwide Arena

Like Patriot Place, Columbus’s Nationwide Arena was built without the help of significant public assistance. In 1997, after four failed ballot initiatives to bring a professional sports team to Columbus over the prior two decades,

183. Robert Preer, *Matching Wits with Wonder; Tomb Developer Taking His Walk-Through Puzzles from Fenway to Foxborough*, BOS. GLOBE, June 28, 2010, at 5.

184. *Id.*

185. *About the Hall*, HALL AT PATRIOT PLACE, <http://www.thehallatpatriotplace.com/about-the-hall/> (last visited Oct. 20, 2011).

186. *Renaissance Hotel & Spa at Patriot Place*, PATRIOT PLACE, <http://www.patriot-place.com/hotel.aspx> (last visited Oct. 20, 2011).

187. *Brigham and Women’s/Mass General Health Care Center*, PATRIOT PLACE, <http://www.patriot-place.com/healthcare.aspx> (last visited Oct. 20, 2011).

the NHL offered Columbus a thirty-day window to obtain financing to build a stadium for a new expansion franchise.¹⁸⁸ The government proposed a three-year, one-half percent sales tax to fund both an NHL arena and Major League Soccer (MLS) stadium in downtown Columbus.¹⁸⁹ Voters also rejected that proposal, and with no “Plan B,” the city accepted an offer from Nationwide Insurance to privately finance a downtown arena for \$150 million.¹⁹⁰ To secure its interest, Nationwide retained their right to the revenues generated from the arena’s naming rights, parking structures, and luxury boxes.¹⁹¹ Beyond the arena cost, Nationwide promised to invest another \$350 million in an entertainment district surrounding the venue that served a dual purpose: enriching downtown Columbus by transforming a formerly blighted area into a regional attraction and protecting Nationwide’s investment in the arena.¹⁹²

In return for Nationwide’s investment, the city was required to lease, and eventually sell, the site of an old federal penitentiary and to contribute \$16.6 million towards roads, sewers, and other capital improvements.¹⁹³ Columbus taxpayers ultimately contributed \$44 million to finance the arena district, which was financed through municipal bonds that were repaid through property taxes generated from a thirty-year tax TIF district.¹⁹⁴ However, the TIF district has been an overwhelming success that has allowed Columbus to profit greatly from its initial investment. The district was initially projected to generate \$47 million in tax revenue over a thirty-year period, but has instead generated over \$31 million per year.¹⁹⁵

The success of the TIF district is also proof of Nationwide Arena’s success in transforming Columbus, Ohio into a regional destination. The Nationwide Arena district includes restaurants, bars, office space, a movie theater, a concert pavilion, a baseball stadium, hotels, and apartment and condominium structures.¹⁹⁶ Unlike Patriot Place, which is most attractive due to its retail

188. Brian Williams & Mark Ferencik, *Despite Chaotic Beginning, Arena Planners Praised for Vision*, COLUMBUS DISPATCH (Ohio), Sept. 3, 2000, at 6D.

189. *Id.*

190. *Id.*

191. Jeff Little, *The Arena Chronicles: Part IV- Arena Requires Public Participation*, HOCKEY WRITERS (Feb. 19, 2010), <http://thehockeywriters.com/the-arena-chronicles-part-iv-columbus-unique-in-arena-structure/>.

192. *Id.*

193. Jim Woods, *City Oks Sale of Pen Land for Arena District*, COLUMBUS DISPATCH (Ohio), July 28, 1998, at 5B.

194. Jim Woods, *New City District to Fuel Revenues*, COLUMBUS DISPATCH (Ohio), Sept. 13, 1998, at 1D.

195. Little, *supra* note 191.

196. *What to Do*, ARENA DISTRICT, <http://www.arenadistrict.com/what-to-do/> (last visited Oct. 29, 2011).

options, Nationwide Arena is a sports.comm focused on providing family-friendly entertainment and downtown residential options for young professionals.

The arena district has successfully attracted families to downtown Columbus by offering a safe, affordable environment featuring many unique attractions. The Arena Grand Movie Theater, for example, was the first movie theater built in downtown Columbus in seven decades.¹⁹⁷ The Lifestyle Communities Pavilion is another distinctive attraction, which features the first ever “reversion stage” that can serve up to 2,200 visitors indoors or 4,500 outdoors.¹⁹⁸ Huntington Park, home of the Columbus Clippers Minor League Baseball team, is another exciting destination for families in the arena district. Built in 2009 for the price of \$55 million, Huntington Park was voted the 2009 Best New Ballpark in America, beating out its parent-club New York Yankees’ \$1.5 billion new stadium.¹⁹⁹ From a practical standpoint, the arena district’s success in attracting families can be attributed to the reasonable prices charged for parking. Rather than charge the premium price of up to \$15 for Blue Jacket’s home games, the district only charges \$3-\$5 for Minor League Baseball parking and charges \$1 everyday for movie theater parking.²⁰⁰ By ensuring families that they will not be gouged unnecessarily for a trip to the arena district, Nationwide Arena provides an affordable entertainment option for families throughout Ohio.

Nationwide Arena has also been extremely successful in attracting young professionals to live within the arena district. The district currently offers six residential options. Arena Crossing, a 252-unit apartment complex, was the first to be built and is 100% leased, despite being priced nearly \$0.20 more per square foot in comparison to other downtown residential options.²⁰¹ Due to its success, Burnham Square was constructed, offering 98 upscale condominiums for as much as \$500,000 per unit.²⁰² The Condominiums at North Bank were built in 2007, providing 109 more high-class

197. See *Arena Grand Movie Theatre*, ARENA DISTRICT, <http://www.arenadistrict.com/what-to-do/arena-grand-movie-theatre/> (last visited Oct. 10, 2011).

198. *Lifestyle Communities Pavilion*, ARENA DISTRICT, <http://www.arenadistrict.com/what-to-do/lifestyle-communities-pavilion/> (last visited Oct. 10, 2011).

199. Hugh J. Dorrian, *Too Much is Invested in Arena District to Put it at Risk*, COLUMBUS DISPATCH (Ohio), Nov. 22, 2009, at 5G.

200. Robert Vitale, *Arena District; Clippers Parking May Stay Modest; Nationwide, County Aim for a Range of \$3 to \$5*, COLUMBUS DISPATCH (Ohio), May 14, 2006, at 1C.

201. Michael Pramik, *Urban Hot Spot Alters Columbus*, NATIONAL REAL ESTATE INVESTOR, Jan. 1, 2007, at 46.

202. *Id.*

condominiums.²⁰³ The three remaining apartments and condominiums are smaller in scale and price and are located in refurbished buildings throughout the district. Nationwide is also in the process of developing a residential neighborhood featuring condominiums and retail space near Huntington Park, which would add the final piece to the western reaches of the arena district.²⁰⁴ Overall, the 800 residents of the arena district represent over \$30 million in annual consumer expenditures.²⁰⁵ However, a negative effect of the arena district's residential development is that because the district is privately owned, Nationwide has had little incentive to provide affordable housing given that the upscale residential market has been so lucrative.

Beyond Nationwide's initial \$350 million investment in the arena district, over \$1 billion has been committed to the final project.²⁰⁶ Since the beginning of the arena district project in 1999, the average property value in the district has increased by 267%, and property values in all of Columbus have increased a total of 22%.²⁰⁷ The arena district was extremely profitable and also well-planned, considering that the one million square feet of available office space has a 95% occupancy rate.²⁰⁸

The immense success realized by private investors in Patriot Place and Nationwide Arena has led to an increased willingness by local governments to participate in the construction of sports.comms. Greater government involvement is important to provide a diverse range of financing alternatives for the development of a sports.comm and to encourage development that is focused on benefiting the community as a whole rather than a private investor's bottom line.

C. Ballpark Village—Petco Park

Development of the Ballpark Village sports.comm began around the same time as Patriot Place and Nationwide Arena, but had the added benefit of significant public support. Petco Park, home of the San Diego Padres, was constructed as the last phase in the revitalization process of downtown San Diego, California and was to be the centerpiece of the downtown

203. *Id.*

204. Mike Pramik, *Construction Zone; New Neighborhood on Deck West of Arena, Huntington Park*, COLUMBUS DISPATCH (Ohio), May 26, 2008, at 8C.

205. David Wirick, *Assessment of the Gross Economic Impact of the Arena District on Greater Columbus*, JOHN GLENN SCHOOL OF PUB. AFFAIRS, July 2008, at 2.

206. *Id.* at 1–2.

207. *Id.* at 12.

208. *Id.* at 14.

revitalization.²⁰⁹ In 1998, 60% of voters approved Proposition C, which allocated \$411 million toward building a ballpark and redeveloping a twenty-six block area of downtown San Diego now known as Ballpark Village.²¹⁰ In return, the Padres pledged to spend \$115 million on the new ballpark, to invest at least \$300 million in the surrounding developments, and to be responsible for all construction cost overruns.²¹¹ Ultimately, the Padres contributed over \$200 million to Petco Park and nearly \$600 million to the surrounding redevelopment.

The revitalization of the blighted East Village section of San Diego exemplifies the effective utilization of the sports.comm public-private partnership model. Redevelopment areas like the East Village are more attractive to private investors that hope to develop a sports.comm because these areas offer greater access to public funding like New Market Tax Credits and Build America Bonds. The city used the leverage created by its public investment to require that the developer sign a CBA in order to build Ballpark Village.²¹² The CBA requires developers to meet LEED green building standards, provide employees and the employees of its service contractors with a living wage, and to institute a local hiring program.²¹³ The agreement also commits the developer to offer affordable housing, to provide a grocery store that offers a living wage and benefits, to fund community arts programs, and to study the effects of the CBA and the Petco development on the local community.²¹⁴

The redevelopment of a blighted area also gave San Diego increased flexibility to repay its bonds. Traditionally, 17% of citywide property tax revenues would accrue to the city and 83% to the state; however, in a redevelopment area most property tax revenue stays in the city.²¹⁵ Therefore, San Diego was able to use its extra projected tax revenue to accumulate the necessary funds to pay off the bonds issued for construction of Petco Park and Ballpark Village. Moreover, through the use of redevelopment district tax

209. *About JMIR: Ballpark District*, JMI REALTY, <http://www.jmirealty.com/about/ballpark/> (last visited Oct. 23, 2011).

210. Caitlin Rother, *Promises of Padres are a Mixed Bag; Some Kept, Some Broken in Long Building Process*, SAN DIEGO UNION-TRIB., Apr. 5, 2004, at A-1.

211. *Id.*

212. *See Ballpark Village Project: Community Benefits Agreement*, SAN DIEGO HOUSING COMMISSION, available at <http://onlinecpi.org/wp-content/uploads/2005/07/BPV-CBA-text.pdf> (last visited Oct. 10, 2011).

213. *Id.* at 5–9.

214. *Id.* at 10–11.

215. Peter Davis, *From Idea to Ideal, Ballpark was a Struggle*, SAN DIEGO UNION-TRIB., Mar. 28, 2004, at G-1.

incentives, San Diego was able to entice its professional baseball franchise to move from the affluent Qualcomm Stadium district to the inner city.²¹⁶ Thus, the formation of a sports.comm enabled the city to successfully redistribute one of its most valuable resources to an area in need of economic development. Currently, the Chargers are discussing a similar move from Qualcomm to the Ballpark District, and hope to have a public vote on \$800 million worth of subsidies for the project by 2012.²¹⁷

Like Nationwide Arena, the Petco Park sports.comm has been more successful as a residential rather than commercial development. The focal point of the redevelopment is the 511-room Omni Hotel and Metropolitan Condominiums, which features a pedestrian walkway that connects directly to the ballpark.²¹⁸ Many other upscale condominiums and apartments populate the district, but unlike Nationwide Arena, Petco also includes Lillian Place, a much needed low-income housing development.²¹⁹ The presence of low-income housing in the middle of an entertainment district reveals the unique opportunities that sports.comms present for community improvement. The district's development has also included San Diego City College, the New School of Architecture, two high schools, and the Thomas Jefferson School of Law;²²⁰ none of which would have been possible without the development of Petco Park.²²¹ By the end of 2009, the sports.comm had expanded to include more than 3500 residential units, 957 hotel rooms, and over 600,000 square feet of commercial space.²²² Therefore, Petco Park has been extremely successful in attracting residents and consumers to take advantage of downtown San Diego businesses.

Petco Park has exceeded expectations as a tax revenue generator, as a catalyst to lure businesses into a previously underutilized downtown, and as a stimulus to San Diego's overall economy.²²³ In fact, from 2000 to 2009 the Petco Park district has generated more than \$207 million in new tax

216. Lou Hirsh, *Study: Petco Park a Home Run for County Economy*, SAN DIEGO BUS. J. (July 19, 2010), available at <http://www.allbusiness.com/government/government-bodies-offices-regional-local/14934711-1.html>.

217. Matthew T. Hall, *Public Money for Sports Teams at an End, AEG Says; Company's President Says Private Enterprise Must pay; Chargers' Counsel Disagrees*, SAN DIEGO UNION-TRIB., at A-1.

218. *About JMIR: Ballpark District*, *supra* note 209.

219. *See Lillian Place*, STUDIO E ARCHITECTS, <http://www.studioearchitects.com/lilian-place#!lilian-place> (last visited Oct. 23, 2011).

220. Hirsh, *supra* note 216.

221. *Id.*

222. *Id.*

223. *Id.*

revenues.²²⁴ Prior to Petco Park, the same area was 70 percent vacant and created only \$2 million per year in property tax revenue.²²⁵ The immense increase in tax revenue is a result of \$1.2 billion in new spending by consumers within the twenty-six block district. Petco Park is also responsible for creating 19,220 jobs since 2000.²²⁶ The success of Ballpark Village at Petco Park offers encouragement to other cities debating whether to offer public investment for the creation of a sports and entertainment district, by demonstrating that a city's investment can guarantee tangible returns for its community.

D. Minor League Sports.comm

Professional sports teams are clearly more successful at drawing large crowds than their minor league counterparts; however, minor league stadiums are equally attractive as a sports anchor facility to a sports.comm. In contrast to attendance at professional sports stadiums, which is often dependent upon team success, minor league stadiums are attractive due to their affordable family-friendly environment and consistent attendance levels. Consistent fans and affordable prices offer great potential for a sports.comm because fans have more money left in their pockets following a game to spend at local nearby businesses.

The most complete vision of a minor league sports.comm and the use of sports for economic revitalization is the development of downtown Indianapolis and its use of a Minor League Baseball stadium as the catalyst for economic development. The construction of Victory Field, home of the Indianapolis Indians, the Triple-A affiliate of the Pittsburgh Pirates, was strategically designed to synergize the developing professional and amateur sports districts within the city. Beginning in the 1980s, Indianapolis became a model for the utilization of sports for economic revitalization with the institution of their *Regional Center General Plan: Indianapolis 1980–2000*, which was designed to foster the development of Indianapolis as the capital of the Midwest for both professional and amateur sports.²²⁷ The plan arose in response to two decades of economic decline throughout Indianapolis and the Midwest, in general.²²⁸

To combat the declining economy, a Policy Group (Group) comprised of

224. *Id.*

225. *Id.*

226. *Id.*

227. ARTHUR T. JOHNSON, MINOR LEAGUE BASEBALL AND LOCAL ECONOMIC DEVELOPMENT 64 (1995).

228. *Id.* at 62–63.

more than twenty local business and civic leaders began meeting to discuss a redevelopment plan for the city and to decide on an identity for the future of Indianapolis. The Group settled on three sectors to focus on during the city's redevelopment efforts: amateur sports, convention and tourism, and arts and culture.²²⁹ Implementation of the plan included the allocation of over \$125 million over ten years for the creation of numerous amateur, professional, and business facilities.²³⁰ The \$77.5 million Hoosier Dome was the most significant investment, but the \$30 million spent on amateur sports infrastructure transformed Indianapolis into the amateur sports center of the country.²³¹ By 1992, the headquarters of nineteen amateur sports organizations had relocated to Indianapolis, including the Amateur Athletic Union, U.S. Diving Association, and the U.S. Gymnastics Federation.²³² The city solidified itself as the nation's premier destination for amateur sports in 1999 when the National Collegiate Athletic Association (NCAA) moved its headquarters to its current downtown Indianapolis location.²³³

In 1980, Indianapolis' initial public investment in sports was met with unprecedented local and national philanthropic support. As part of its revitalization plan, the city constructed a downtown public meeting place to solicit community input on its future development projects.²³⁴ These meetings were attended by 25,000 people in the first year.²³⁵ They were especially popular due to Indianapolis' unique local political structure. The city had a unified city and county government, which offered greater power to the mayor and ultimately made the local government more flexible to the will of the people.²³⁶ The Indianapolis revitalization also utilized unprecedented philanthropic support from the Lilly Endowment Foundation, which provided a \$25 million donation for the revitalization project.²³⁷ However, by the end of the 1980s, the public had grown tired of its tax contribution to sports development in the city and voted against a \$40 million bond offering to build dormitories for the Pan-American Games, which were to be converted to low-income housing.²³⁸ Following the failed bond offering, the attempt to secure

229. *Id.* at 63.

230. *Id.*

231. *Id.*

232. *Id.* at 69.

233. Steve Herman, *NCAA to Move into New Headquarters*, ASSOCIATED PRESS, Mar. 23, 1999.

234. JOHNSON, *supra* note 227.

235. *Id.*

236. *Id.*

237. *Id.*

238. *Id.*

public funding for a new minor league stadium for the Indianapolis Indians became a major challenge.

In 1977, the City of Indianapolis bought the Indians' home, Bush Stadium, from their deceased owner for a total of \$300,000.²³⁹ The city leased the stadium to the Indians, who were responsible for operational and maintenance costs, while the city provided major structural repairs, including a \$1.8 million renovation in 1979.²⁴⁰ During the 1980s, the public debate over moving the team from its location outside of downtown into the city centered on whether the city should invest in a minor league or professional baseball stadium, not whether a stadium should be constructed at all. As public sentiment turned, the Indians' private ownership group was unable to get their stadium completely funded by the city. Instead, the team's private investors and the Indianapolis Capital Improvement Board split the initial \$18 million construction costs, which were privately funded through ticket sales and fundraising.²⁴¹

Victory Field opened in 1996 and was immediately named the "Best Minor League Ballpark in America" by both *Baseball America* and *Sports Illustrated*.²⁴² The stadium shares many characteristics with its Major League counterparts' architecture, which exemplifies the city's desire to create a minor league sports comm. The stadium includes open concourses, lawn seating for 2000 fans, and 12,500 permanent seats.²⁴³ It also includes twenty-eight luxury suites, five party suites, and two large picnic areas.²⁴⁴ The city recently committed another \$700,000 to upgrade Victory Field by installing an open-air restaurant and bar in the stadium's left field stands.²⁴⁵

The \$20 million facility was strategically placed to act as an economic catalyst with the purpose of consolidating the amateur and professional sports sections of downtown Indianapolis.²⁴⁶ The stadium is located at the southwest border of White River State Park in downtown, which is now home to numerous cultural, commercial, recreational, and educational facilities.

239. *Id.*

240. *Id.*

241. *Id.*

242. *Victory Field Profile*, MILB.COM, http://www.minorleaguebaseball.com/ballpark/page.jsp?ymd=20050630&content_id=13591&vkey=ballpark_t484&fext=.jsp&sid=t484 (last visited Oct. 10, 2011).

243. *See id.*

244. *Id.*

245. *Indians Adding Dining Option; \$700k Project Brings Restaurant, Bar to Victory Field*, INDIANAPOLIS BUS. J., Feb. 7, 2011.

246. *Victory Field*, SCRIBD, at 43, available at <http://www.scribd.com/doc/50538485/Local-Info-Camp-Atterbury-Muscatatuck-Urban-Training-Complex> (last visited Oct. 10, 2011).

Nearby attractions include the NCAA Hall of Champions, the Indiana State Museum, an IMAX theater, and the Congressional Medal of Honor Memorial. In the ten years following the stadium's opening in 1996, the area received over \$3 billion in private and public capital investments, which includes the development of the Circle Centre Mall, 300 new retail stores, and 200 bars and restaurants downtown.²⁴⁷

The city has used the minor league stadium as a catalyst for urban revitalization by taking a synergistic approach to implementing its various recreational and entertainment attractions.²⁴⁸ Professional and amateur sports attractions generally draw different markets; therefore, the utilization of baseball, America's pastime, has been the perfect element to combine the distinct districts. Victory Field's strategic location in downtown Indianapolis and the city's decision to forego an attempt to lure a professional baseball franchise has made it an attractive place for budget-conscious families, which has produced a consistent revenue base. The city of Indianapolis began its economic revitalization plan over twenty years ago, and has successfully created the model minor league sports.com through smart investment and by highlighting its Midwestern identity by focusing on quality and affordability in order to create a vibrant, family-friendly entertainment district.

Following the success of Victory Field as an economic catalyst, minor league sports.comms have been utilized by cities that are unable to support a professional sports franchise. Examples of successful minor league sports.comms include Louisville Slugger Field in Louisville, Kentucky; Autozone Park in Memphis, Tennessee; Canal Park in Akron, Ohio; Fifth Third Field in Dayton, Ohio; and Campbell's Field in Camden, New Jersey.

E. College Sports.com

Most recently, the sports.com concept has been utilized in the college setting to satisfy both the practical and revenue-producing needs of the modern university. A college sports.com increases use days and revenue streams for universities. If the university can partner with a private developer to create commercial and residential revenue-producing real estate, the university can share in the cash flow, equity, and appreciated value of the real estate. Such cash flows may help the university pay for the cost of construction, ongoing maintenance of its facilities, and other athletic program costs. Furthermore, a college sports.com creates a lifestyle and retail experience for students,

247. *Victory Field Profile*, *supra* note 242.

248. Craig Penquite, Thesis, *Urban Ballpark Design: A Holistic Strategy Toward Vitalization*, U. CIN. ARCH. 68, 2004, available at <http://etd.ohiolink.edu/view.cgi/Hall%20Bridget.pdf?ucin1242531725>.

alumni, and guests, as part of, adjacent to, or connected to a sports facility. A college sports.com could include retail, residential living spaces including condominiums, a convocation center, and a university hotel connected to or near a sports facility. The college sports.com concept has generally taken two forms: multi-use districts built for the purpose of acting as an economic catalyst for a school and its athletic programs, or multi-use districts built to capture revenues generated by fans of successful athletic programs. Examples of catalytic college sports.coms include Florida Atlantic University (FAU), and the University of Nevada-Las Vegas (UNLV). Examples of the staged college sports.com, which seeks to capitalize on a school's existing sports facilities, includes the Ohio State University (OSU) and the University of Notre Dame (Notre Dame).

1. Florida Atlantic University.

Innovation Village has become a reality as a result of a joint venture between FAU and two private developers, Capstone On-Campus Management (Capstone) and Balfour Beatty Campus Solutions (Balfour Beatty).²⁴⁹ Under their agreement, Balfour Beatty contributed \$3.4 million in bonds to finance the project.²⁵⁰ After completion, FAU is responsible for leasing, marketing, student programming, and residential life.²⁵¹ Capstone and Balfour Beatty will co-manage the new and existing student housing facilities on campus, and be responsible for budgeting and physical operations.²⁵²

Financing for the project required significant public investment beyond the developer and university's contribution. Of the \$70 million stadium cost, \$44.5 million will be funded by Build America Bonds, which will be financed by a thirty-year, fixed rate loan.²⁵³ The interest rate is set at 5.78%, but a Build America Bond federal interest rate subsidy will make FAU's effective rate 3.76%.²⁵⁴ The balance will be contributed through university funding.²⁵⁵

Construction of Innovation Village was conducted in phases. Phase I of the development was completed in the fall of 2009 with the construction of a

249. *Innovative Campus Life: FAU Breaks Ground on Innovation Village Apartments*, FAU, http://www.fau.edu/explore/homepage-stories/2010_04IV.php (last visited Oct. 29, 2011).

250. *Id.*

251. *Id.*

252. *Id.*

253. *Innovation Village Stadium Project: Final Terms of Stadium Loan*, FAU (Dec. 15, 2010), http://www.fau.edu/bot/files/12_15_2010_committee_meeting/audit_finance/innovation_stadium_project.pdf.

254. *Id.*

255. *Id.*

32,000-foot Wellness Center, an alumni center, and 480 new parking spaces.²⁵⁶ Phase II began in March of 2010 and includes Innovation Village Residential Hall, which features 1200 beds and was set to open in August of 2011.²⁵⁷ The stadium project also began construction in 2010, and opened in October 2011.²⁵⁸ The stadium includes 30,000 seats, 5,000 club seats, 26 loge boxes, and 20 suites. The construction is subject to a Community Development Agreement with the City of Boca Raton, Florida, which limits the number of events at the new stadium to fifteen per year.²⁵⁹ However, the agreement allows that number to be modified at any time.

Because FAU previously played its football games nearly fifteen miles away, the on-campus stadium is expected to generate immediate revenues for the University. Beginning with the 2011–2012 season, FAU expects the stadium to produce \$6,244,733 in annual revenue, at a cost of \$3,784,588 in yearly expenses.²⁶⁰ More notably, the stadium is expected to add \$1.7 million into the local economy during each FAU home game.²⁶¹

2. University of Nevada–Las Vegas.

UNLV has recently begun the process of developing its own sports.comm. In February 2011, the University agreed to grant a 150-day negotiating window to Ed Roski, Jr. to propose a construction and financing plan for a 40,000-seat, domed, multi-use facility on its Las Vegas campus, which would include approximately 600,000 square feet of retail space and restaurants, student housing, parking, and a refurbished events center.²⁶² Roski is working with the same architect that he used in the development of L.A. Live at the Staples Center, and most recently, the proposed 80,000-seat NFL stadium in the City of Grand Crossing.²⁶³

The preliminary proposal places the 40,000-seat stadium as the

256. *Id.*

257. *Id.*

258. *Id.*; *Student Government Game Day Program: FAU v. UAB*, FAU, <http://www.fau.edu/sg/gameday.php> (last visited Dec. 14, 2011).

259. *Innovation Village Stadium Project*, *supra* note 253.

260. Rebekah Monson, *FAU Gives Early Peek at Stadium*, SUN-SENTINEL (Florida), Mar. 31, 2011, at 1B.

261. *Id.*

262. Press Release, Craig Cavileer, *Majestic Realty Co. Proposes Mixed-Use Development Including Multi-Purpose Events Center at UNLV*, MAJESTIC REALTY CO. (Feb. 1, 2011), available at <http://www.unlvnow.com/downloads/2011-02-01.pdf>.

263. Sam Farmer, *Roski Not Fazed by Naming-Rights Deal; He Says His Plan for an NFL Stadium in City of Industry is Better Than AEG's*, L.A. TIMES (Feb. 7, 2011), at SPORTS 1.

centerpiece of a 150-acre mixed-use village, which will include 3000 housing units and 600,000 square feet of retail space.²⁶⁴ The 150-acre master-planned development would include retail space and university housing.²⁶⁵ The unique aspect of the project is the flexibility of the proposed mixed-use arena. The event center is being designed to host UNLV basketball and football events, NCAA bowl games, Arena Football, NBA, NHL, MLS, and even Professional Bull Riding.²⁶⁶ One of the main focuses of the development is continuing Las Vegas' relationship with the National Finals Rodeo, which is held annually in December. Other facilities like Dallas Cowboys Stadium have been trying desperately to poach the event.²⁶⁷

The Nevada Board of Regents recently approved a 150-day extension for the University and Majestic Realty to propose a suitable financing package.²⁶⁸ The proposal cannot include academic dollars, but the proceeds from ticket sales and rent could be used.²⁶⁹ University President Neal Smatresk is confident a project will get done, saying, "We do believe in this project. When you try to do something very big and very bold that can change your campus and the trajectory of growth and build-out of UNLV, it takes time."²⁷⁰

3. The Ohio State University.

OSU's application of the sports.comm concept is more similar to its professional sport counterparts. A 2005 economic impact study concluded that OSU's sports programs were responsible for generating \$100 million a year for the local economy, one-third of which came from fan spending on hotels, food, parking, and shopping.²⁷¹ Therefore, OSU's goals were to capture a portion of those revenues while revitalizing the University, enhancing the housing and retail options in the area, and creating a greater sense of a collegiate atmosphere.²⁷²

264. Jason R. Latham, *UNLV Project Goes Beyond Stadium*, FOX5 VEGAS (Feb. 1, 2011), <http://www.fox5vegas.com/news/26692310/detail.html>.

265. *UNLV to Continue Talks on New Stadium*, REVENUES FROM SPORTS VENUES NEWSLETTER, June 23, 2011.

266. *The Cause*, UNLVNOW.COM, <http://www.unlvnow.com/index-1.html> (last visited Oct. 23, 2011).

267. *Id.*

268. *UNLV to Continue Talks on New Stadium*, *supra* note 265.

269. *Id.*

270. *Id.*

271. Jon Weinbach, *Inside College Sports' Biggest Money Machine*, WALL ST. J., Oct. 19, 2007, at Bus. News.

272. *Retail Development Draft Market Study-FIU*, BRAILSFORD & DUNLAVEY, Mar. 2008, available at <http://facilities.fiu.edu/documents/sacs/FIU-Retail-Market-Study-March-08.pdf>.

The creation of the OSU sports.comm began in 1995 with the creation of an urban redevelopment plan to improve the quality of life within the University.²⁷³ The specific goals were to create a college-town atmosphere around the campus, improve the retail and rental housing markets in the area, and to improve the quality of life in the neighborhood.²⁷⁴ By 1999, development began on a \$153 million mixed-use project featuring restaurants, a movie theater, retailers, apartments, and a parking garage.²⁷⁵ Overall, the development included 184 apartments, 88,000 square feet of office space, and 249,000 square feet of retail space.²⁷⁶ The project was funded through contributions from the University, New Market Tax Credits, and TIF districts funded by city and state taxes.²⁷⁷ Since its opening in 2005, the sports.comm has been successful in creating a gateway to the campus and in promoting additional development adjacent to the district.²⁷⁸

4. The University of Notre Dame.

Arguably the most unique college sports.comm can be found at Notre Dame, which has used the popularity of its sports programs not only to upgrade the retail and dining options around its sports facilities, but also to promote innovation and advancements in technology. Opened in September 2009, the \$215 million sports.comm was created based on a partnership between Notre Dame and the City of South Bend.²⁷⁹ The City provided \$35 million worth of infrastructure improvements and acquired land for the project in return for the University's promise to focus development on attracting innovative businesses.²⁸⁰

The Notre Dame sports.comm includes Innovation Park, a state-certified technology park, and Eddy Street Commons, a retail and dining complex—both across the street from Notre Dame Stadium—the Joyce Center, baseball and softball fields, and new hockey arena. Innovation Park was developed for the specific purpose of serving early-stage businesses that could benefit from access to the university's resources and expertise. Some current businesses at Innovation Park include Maranon Capital, L.P., NETech Corporation, and

273. *Id.* at 15.

274. *Id.*

275. *Id.*

276. *Id.* at 16.

277. *Id.* at 15.

278. *Id.*

279. *The Northeast Neighborhood Gets a Gold Star*, SOUTH BEND TRIB. (Indiana), Dec. 3, 2010, at A6.

280. *Id.*

Elevate Ventures.²⁸¹ Eddy Street Commons includes apartments, condos, gymnasium, multiple restaurants, a bank, and multiple retailers. Shops include an AT&T store, an outdoor sports store, a bookstore, and a salon and spa.

The Notre Dame project has been considered a complete success and personifies an ideal college sports.com by aligning the economic goals of a university with its goals as an institution of education and innovation. The project has been so successful that it won the Gold Award for Municipal Excellence by the National League of Cities. As these relatively new college sports.coms begin to prove their economic value, there is no doubt that the trend will spread to universities across the country.

F. International Sports.com

Just as the sports.com concept can be applied on a smaller scale to minor league ballparks that provide an affordable, family-friendly sports entertainment attraction, the sports.com can also be successful on an international scale. By consolidating multiple different professional sports venues within a single location, an international sports.com could potentially provide year-round professional sports entertainment. A well-planned international sports.com that has no offseason would provide the ideal sports anchor to a sports.com and would attract the best brands in entertainment, retail, and residential development from across the globe to compete for year-round exposure within the entertainment district. As a result, a well-planned international sports.com could attract consumers worldwide.

The international sports.com concept has been utilized for years, at least temporarily, to maximize revenues at the site of each Olympic Games, but Dubai Sports City is the first true stand-alone international sports.com. Short-term events with massive appeal such as the Olympics require enormous infrastructure investments that are generally underutilized by a city following the event.²⁸² While a city might be well-positioned to host a single “mega-event,” it is unlikely to be able to utilize the resulting infrastructure efficiently after the event has concluded.²⁸³

1. Dubai Sports City.

Rather than attempt to reinvent a city to compete in the global marketplace

281. *Clients and Services*, INNOVATION PARK AT NOTRE DAME, <http://innovationparknd.com/about-ipnd/tenants/> (last visited Oct. 23, 2011).

282. Solomon J. Greene, *Staged Cities: Mega-Events, Slum Clearance, and Global Capital*, 6 YALE HUM. RTS. & DEV. L.J. 161, 164 (2003).

283. *Id.*

after a mega-event has concluded, Dubai Sports City has taken the revolutionary step of preplanning an entire sports city to attract mega-events throughout the year. Dubai Sports City's official vision statement is "[t]o create one of the world's premier sporting destinations in line with the overall vision of Dubai to create world class sporting infrastructure and become a destination for the sporting world."²⁸⁴ To achieve its goal as an international entertainment destination, Dubai is constructing a \$4 billion, 50 million square-foot mixed-use sports.comm development.

The sports venues in Dubai Sports City are still under development, but will include four professional sports stadiums and the Els Club golf course.²⁸⁵ The largest facility will be a 60,000-seat, multi-use outdoor stadium designed to host world-class football, rugby, and track and field.²⁸⁶ The City will feature a 10,000-seat indoor stadium for basketball, volleyball, tennis, ice hockey, and other indoor events.²⁸⁷ It will also include an advanced 25,000-seat cricket stadium and 5,000-seat field hockey stadium.²⁸⁸ The golf course was completed in 2008 and was named "Best New International Course."²⁸⁹

Residential, commercial, and retail facilities are also under construction and will provide luxurious complements to Dubai Sports City's state of the art venues. Residential options include the Canal Residence West Apartments, Victory Heights Villas, and the completed Gallery Villas, near the Els Club Golf Course.²⁹⁰ Dubai Sports City will also include three commercial real estate structures, including The Gateway, a forty-four story office tower. Retail options will be available throughout the area, but the 1.9 million-square-foot Arena Mall will be the main retail destination.²⁹¹ The mall will include over 300 retail stores, a 120,000 square-foot family entertainment center, Cinema Multiplex, and multiple eateries and food courts.²⁹² It will also connect directly to the cricket stadium and multi-purpose indoor stadium to

284. *Vision and Mission*, DUBAI SPORTS CITY, <http://www.dubaisportscity.ae/articledisplay.asp?id=60> (last visited Oct. 23, 2011).

285. *Stadiums*, DUBAI SPORTS CITY, <http://www.dubaisportscity.ae/articledisplay.asp?id=74> (last visited Oct. 23, 2011).

286. *Id.*

287. *Id.*

288. *Id.*

289. *Best New Golf Courses of 2008*, LINKS GOLF MAGAZINE, http://www.links magazine.com/golf_courses/best-new-golf-courses-of-2008/els-club-golf-course-dubai/ (last visited Oct. 23, 2011).

290. *Residential*, DUBAI SPORTS CITY, <http://www.dubaisportscity.ae/articledisplay.asp?id=15> (last visited Oct. 23, 2011).

291. *A Well-Designed, Shopper-Friendly Environment*, ARENA MALL, http://www.arenamall.ae/great_shopping.asp (last visited Oct. 23, 2011).

292. *A Diverse Retail Mix*, ARENA MALL, <http://www.arenamall.ae/retailmix.asp> (last visited Oct. 23, 2011).

maximize consumer traffic.²⁹³

Once completed, Dubai Sports City will be the ultimate example of the potential for a sports.com development. However, like all other developments that have been financed during the last few years, the global recession has caused rents to fall dramatically in Dubai Sports City, which has delayed construction.²⁹⁴ Most significantly, financing within Dubai Sports City must comply with Shariah Law, which prohibits lenders from earning interests; therefore, developers must find investors that are willing to act as partners on the project rather than simply as lenders.²⁹⁵ The resulting lack of financing has led the Dubai government to allocate forty-three percent of its budget to local economic and infrastructure development, which has boosted Dubai's property market and revitalized the development of the world's preeminent international sports.com.²⁹⁶

2. Qatar.

Like the Summer and Winter Olympics, the FIFA World Cup occurs every four years and draws a global audience; therefore, the host city is obligated to develop infrastructure in order to satisfy the massive crowds drawn to the event. In December 2010, the small Middle Eastern country of Qatar beat out Australia and the United States to host the 2022 World Cup.²⁹⁷ With no stadiums capable of supporting the event, the country plans to spend \$57 billion to build twelve state-of-the-art stadiums.

The most notable stadium is the Sports City Stadium, which is planned to be a "full entertainment destination in one building."²⁹⁸ The 47,560-seat stadium is projected to cost \$1.6 billion, but could rise to \$2 billion, making it the most expensive stadium in history.²⁹⁹ Features include a retractable roof

293. *Id.*

294. Kevin Brass, *Half of Buyers Default on Dubai Sports City Project*, NATIONAL, July 19, 2011, available at <http://www.thenational.ae/business/property/half-of-buyers-default-on-dubai-sports-city-project>.

295. Heather Timmons, *Dubai Crisis Tests Laws of Islamic Financing*, N.Y. TIMES, Dec. 1, 2009, at B4.

296. Richar Ellis, *CBRE-Dubai MarketView*, ZAWYA (Apr. 24, 2011), <http://www.zawya.com/story.cfm/sidZAWYA20110424065548/Dubai-Rents-Continue-Slide>.

297. Simon Rice, *Qatar's Incredible Stadium Plans for 2022 World Cup*, INDEPENDENT (Dec. 2, 2010), <http://www.independent.co.uk/sport/football/news-and-comment/qatars-incredible-stadium-plans-for-2022-world-cup-2149447.html>.

298. Dan Muret, *Capacity Increase Could Make Qatar Stadium Costliest Ever*, SPORTS BUS. DAILY (July 18, 2011), <https://www.sportsbusinessdaily.com/Journal/Issues/2011/07/18/Facilities/Breaking-Ground.aspx>.

299. *Id.*

that will also provide seating above the playing field, adjustable seating capacity, and a cooling system that will provide cool air for spectators and players in the desert heat.³⁰⁰

Sports City Stadium was specifically designed for the venue to have a lasting effect in the region. Dan Meis, an architect working on the project with the Kansas City firm Populous, explained that “[o]ften countries will build stadiums for events, and they have difficulty utilizing the building afterwards.”³⁰¹ Populous sought to avoid that problem by meshing the stadium design with Arabian culture using inspiration drawn from a Bedouin tent.³⁰² Like a Bedouin tent, the stadium will be easily convertible, which will allow it to satisfy a multitude of events.³⁰³ With the economic trouble of Dubai Sports City, the successful completion of the Qatar stadium project could make it the preeminent international sports.comm.

IV. STAGED SPORTS.COMM

Though sports.comms are most successful as a revenue generator when they are part of a fully-conceived development plan, team owners and local governments have begun to apply the sports.comm concept on a staged basis by upgrading a city’s existing sports infrastructure. Team owners that own additional land surrounding their stadium, or are part of a receptive community that enables them to acquire that land, have begun creating multi-use entertainment districts adjacent to their sports venues in order to further enlarge their sports venues.

Most notably, league revenue-sharing rules have made the development of a sports.comm a practical necessity for owners in order to keep their teams economically viable. All professional leagues have some form of revenue sharing that generally requires teams to share their national media, licensing, and gate receipt revenues; however, other stadium revenues are generally not shared.³⁰⁴ Therefore, team owners have sought to maximize their stadium revenues by constructing additional revenue-generating facilities around an existing professional sports anchor venue. These structures are not necessarily sports-related; rather, they are traditional retail, entertainment, and recreational elements capable of attracting large crowds to a sports venue.

300. Kyle Stack, *Qatar World Cup Stadiums Promise Eco-Friendly Soccer Utopia*, WIRED.COM (Dec. 6, 2010, 3:00 PM), <http://www.wired.com/playbook/2010/12/gallery-qatar-stadiums/?pid=75&viewall=true>.

301. *Id.*

302. *Id.*

303. *Id.*

304. SCOTT ROSNER & KENNETH L. SHROPSHIRE, *THE BUSINESS OF SPORTS* 48 (2004).

The staged sports.comm concept, in addition to being utilized by team owners, has also been utilized by local governments that have attempted to transform their city into a destination place in order to better compete in the emerging global marketplace. Cities have accomplished this by both expanding their existing stadium infrastructure and by creating new sports venues in the hope of attracting a professional sports tenant to anchor its multi-use entertainment district. The effects of the recession have generally required local governments to play a larger role in the development of the modern sports.comm, which has given cities more power to control the planning of these developments, ensuring that the sports.comm will benefit the local community as well as the local sports franchise.

Examples of the staged sports.comm concept include the expansion of the New Orleans Superdome, home of the New Orleans Saints, and the creation of the Titletown District surrounding Lambeau Field, home of the Green Bay Packers. The city-driven staged sports.comm is best illustrated by the Bricktown District in Oklahoma City, home of the Oklahoma City Thunder; and the Platinum Triangle in Anaheim, home of the Los Angeles Angels of Anaheim and the Anaheim Mighty Ducks.

A. *New Orleans Superdome*

The New Orleans Superdome has long been one of the nation's preeminent indoor sports venues, but was decimated when Hurricane Katrina tragically struck Louisiana in 2005. Prior to the disaster, the Saints had been putting pressure on the State of Louisiana to finance a new stadium or to contribute to necessary large-scale Superdome improvements. Without the requisite local support to publicly finance a new stadium, the State agreed to contribute yearly state subsidies to cover the Saints' annual revenue losses.³⁰⁵ At the time, only Indianapolis had offered to subsidize its NFL franchise's revenue losses, but the Louisiana state government realized it could not retain its NFL franchise without offering public subsidies.³⁰⁶ The state concluded that its participation was necessary based on the fact that New Orleans ranked as the fourth smallest NFL franchise, had the third fewest television households among NFL markets, and its population had one of the lowest per capita incomes among NFL cities.³⁰⁷ Therefore, in 2001, the Saints and the

305. Victor A. Matheson & Robert A. Baade, *NFL Governance and the Fate of the New Orleans Saints: Some Observations*, INT'L ASSOC. OF SPORTS ECONOMISTS 3 (Apr. 2007), available at http://college.holycross.edu/RePEc/spe/BaadeMatheson_NFLSaints.pdf.

306. John Fritze & Kevin Corcoran, *Subsidies for Colts Unforeseen*, INDIANAPOLIS STAR, Nov. 21, 2004, at 1B.

307. Stephen Stuart, *Funds & Games: Paying for the Saints*, BUREAU OF GOVERNMENTAL RES.

State of Louisiana entered into a ten-year, \$180.5 million agreement that would initially pay the Saints \$12.5 million, with payments scheduled to gradually increase to \$23.5 million per year.³⁰⁸

Following Hurricane Katrina, the state's desperate bargaining position in negotiations with the Saints became much worse due to the destruction in and around the Superdome. Due to the devastation throughout the city, the Superdome became an important anchor for retail, commercial, and cultural redevelopment in New Orleans.³⁰⁹ Therefore, out of necessity, the state and Saints owner Tom Benson (Benson) entered into a public-private partnership to create a staged sports.comm around a refurbished Superdome.

The first phase of the Superdome sports.comm was to reinvigorate the deteriorating Superdome with \$85 million in publicly-financed improvements.³¹⁰ A portion of these improvements utilized New Market Tax Credits, which were available because the construction would take place in a blighted area.³¹¹ The funds were primarily directed towards stadium improvements including the addition of 3100 plaza-level seats, sixteen new luxury boxes, premium club lounges, and forty-three additional food and beverage stands throughout the Superdome.³¹² With the exception of the increased plaza seating, all increased revenues generated from these improvements would fund nonshared NFL revenue streams.³¹³ In return for such an advantageous deal, Benson agreed to decrease the amount of annual government subsidies owed by the state to between \$6 and \$7 million per year.³¹⁴

The second phase of the Superdome redevelopment has also been developed with a focus on maximizing the Saints nonshared revenues. The next step was to replace the New Orleans Centre mall and Dominion Tower government building with a lucrative alternative. The Benson family's company, Zelia, LLC (Zelia), privately purchased the 26-story Dominion Tower for a price of \$12.5 million, on the condition that the state would promise to lease at least two-thirds of the vacant office space for the first

8 (Jan. 2005), <http://www.bgr.org/files/reports/FundsandGames.pdf>.

308. *Id.* at 10.

309. Robert Travis Scott, *New Orleans Saints, Superdome Game Plan is Multilayered Effort for State*, NOLA.COM (Feb. 21, 2010), www.nola.com/business/index.ssf/2010/02/new_orleans_saints_complicated.html.

310. *Id.*

311. *Id.*

312. *Id.*

313. ROSNER & SHROPSHIRE, *supra* note 304.

314. Scott, *supra* note 309.

fifteen years.³¹⁵ Zelia also purchased the New Orleans Centre properties, including a 2000-space parking garage, for a total of \$42.1 million.³¹⁶ The agreement required the Louisiana Sports Entertainment District to pay the Bensons \$2.3 million annually in rent for the New Orleans Centre.³¹⁷ The \$10.5 million cost of demolishing the property surrounding the stadium was also paid for by the state as a credit for the remaining subsidy payments forgiven by the Saints.³¹⁸ The demolition made room for the creation of a 92,000-foot open-air gathering place, now known as Champions Square. Currently, the area serves as a grand entrance to the Superdome, a performance stage, and a game-day party zone for pregame events.³¹⁹ Another private developer is in the process of completing the renovation of the New Orleans Hyatt hotel that was destroyed during Hurricane Katrina, but had previously been a focal point of the Superdome district.³²⁰ The hotel renovation project will cost a total of \$275 million to complete and will be a key addition to the district.³²¹ The coordination of those two distinct developments will be critical to the overall functionality and success of the Superdome staged sports.comm.

The final phase of development will concern the implementation of new entrances to the Superdome and the creation of restaurants, night clubs, and entertainment venues within the entertainment district. As those developments are completed, the City of New Orleans plans to join the ranks of Patriots Park and L.A. Live as one of the nation's model sports.comm developments.³²² At a minimum, the sports.comm will be nationally recognized as the Superdome is scheduled to host the 2012 and 2013 Sugar Bowl; the 2012 Bowl Championship Series National Championship Game, the 2012 Men's Basketball Final Four, and Super Bowl XLVII in 2013.³²³

315. *Id.*

316. *Id.*

317. *Id.*

318. *Id.*

319. Nakia Hogan, *Champions Square Will Open for New Orleans Saints' First Exhibition Game at Superdome*, NOLA.COM (Aug. 15, 2010), http://www.nola.com/saints/index.ssf/2010/08/champions_square_set_to_open_f.html.

320. *Officials Break Ground on Hyatt Regency New Orleans Redevelopment Project*, NOLA.COM (Aug. 18, 2010, 11:04 a.m.), http://www.nola.com/business/index.ssf/2010/08/officials_break_ground_on_hyat.html.

321. *Id.*

322. *Id.*

323. Kathy Finn, *New Anchor in Town*, MYNEW ORLEANS.COM (Nov. 2010), <http://www.myneworleans.com/New-Orleans-Magazine/November-2010/New-anchor-in-town/>.

B. Titledown District

Similar to New Orleans, development of the Titledown District surrounding Lambeau Field in Green Bay, Wisconsin has adopted the staged sports.comm formula for creating a regional sports and entertainment destination. However, unlike the Superdome and arguably all of the sports.comm developments previously discussed, Lambeau Field has the unique distinction of being located in a cold, rural area of the country. Therefore, the success or failure of the Titledown District will be the ultimate test of whether the staged sports.comm is a viable tool for economic development regardless of market size, climate, or location. The Titledown District could also finally conclude the seemingly endless debate over whether a sports venue creates new wealth or simply transfers wealth from other forms of entertainment within a city.

The Green Bay Packers are also in a unique position as a result of NFL revenue-sharing rules. Unlike the owners of large-market teams that seek to develop a sports.comm in order to avoid losing revenues to league revenue sharing rules, the Packers have been forced to implement a sports.comm surrounding Lambeau Field to supplement its proceeds from revenue sharing in order to remain economically viable in the NFL. The current NFL salary cap formula includes both shared and nonshared revenues; therefore, as nonshared revenues have increased, due in large part to the modern sports.comm, the salary cap has also increased.³²⁴ Thus, while player costs have consistently risen as a result of increased nonshared revenues, the amount of shared revenues available to the Packers has remained the same. Meanwhile, the Packers local revenues have remained the same since 2007.³²⁵ Though the exact numbers are unavailable, Packers President Mark Murphy has observed that player costs are outpacing revenue by a two-to-one rate.³²⁶ As a result, the Packers and the City of Green Bay are working together to upgrade its existing infrastructure to create a staged sports.comm in order to mitigate Green Bay's size disadvantage compared to competing NFL markets.

Similar to the New Orleans Superdome, the first phase of the Titledown District required a renovation of the existing football venue. In 2002, Lambeau Field underwent a massive \$295 million renovation that caused the

324. Christopher Stefani, *State of the Shield: The NFL's Economic Model and Its Impact on Competitive Balance*, STATE OF THE SHIELD (Sept. 2009), http://stateoftheshield.com/files/State_of_the_Shield_by_Christopher_Stefani_09_09.pdf.

325. Gregg Rosenthal, *NFLPA Responds to Packers' Financial Report*, PROFOOTBALLTALK (July 14, 2010, 5:29 PM), <http://profootballtalk.nbcsports.com/2010/07/14/nflpa-responds-to-packers-financial-report/>.

326. *Id.*

stadium to more than double in size to nearly 1.7 million square feet.³²⁷ The crown jewel of the development was the five-story Lambeau Field Atrium. The facility is home to the Green Bay Packers Hall of Fame, the Packers' team shop, interactive fan zones, event facilities, seven new restaurants, and multiple new outlets for concessions.³²⁸ The developer of the project, Hammes Co., strategically positioned the atrium to "open up the building to the potential of bringing people to the stadium year-round."³²⁹

The one-time impact of the Lambeau renovation on Brown County included \$203 million in spending, \$79 million in wages, and \$5.8 million in tax revenues created during construction.³³⁰ At the peak of construction, the development created approximately 880 jobs.³³¹ As a result of the development, use of the renovated stadium has increased the local impact of the Packers by an estimated \$107 million in new spending, 940 jobs, and \$5.6 million in tax revenue.³³² Based on the success of the Lambeau Field renovation, Hammes Co. has also been hired for the more challenging task of creating a proposal to make the Tiletown District into a year-round regional destination.

To date, the Packers have acquired twenty-eight acres of land surrounding Lambeau Field for a price of \$27 million, which was \$10 million greater than the fair market value for the land.³³³ Little is currently known about the Packers' plans for developing the area, but Packers' President Mark Murphy hopes the finished development will triple the total number of people that visit Lambeau Field each year, and will pay back the community's contribution towards the \$295 million Lambeau Field renovation.³³⁴ However, before that investment can be repaid, the Packers must seek to extend the one-half cent Brown County sales tax used for the initial renovation, which is scheduled to end by 2015; although the last of the \$174 million in bonds issued for the

327. *10 Things You Gotta Know About Lambeau*, GREEN BAY PRESS-GAZETTE, Aug. 24, 2003, at 10T.

328. Karen Rauen, *Atrium is Crown Jewel of New Lambeau*, GREEN BAY PRESS-GAZETTE, Aug. 24, 2003, at 14T.

329. *Id.*

330. *Economic Impact Study of the Green Bay Packers and the Redeveloped Lambeau Field*, AECOM TECHNICAL SERVS., INC. 1, 7 (Sept. 22, 2010), available at http://www.packers.com/assets/docs/2010economic_impact_report.pdf.

331. *Id.*

332. *Id.*

333. Tony Walter, *Green Bay Packers Have Big Plans for Real Estate Surrounding Lambeau Field*, GREEN BAY PRESS-GAZETTE, July 26, 2010, at GPG.

334. *Everyone Has Interest in Lambeau Field Area*, GREEN BAY PRESS-GAZETTE, Aug. 1, 2010, at A13.

renovation will be paid off by August 1, 2011.³³⁵

The next step of the Titledown development will be another renovation of Lambeau Field, this time adding up to 6600 additional seats, which will enclose the south end of the stadium to create a “wall of sound.”³³⁶ The additional seating, along with ticket prices that were increased by \$8 to \$11 dollars apiece last year, will allow the Packers to make a greater financial contribution to future development surrounding the stadium.³³⁷ According to Jason Wied, Packers’ Vice President of Administration/General Counsel, the new seats will be in vertical stacks to allow maximum visibility, and will likely include standing-room-only, loge, and premium seating options.³³⁸ The new seating will have an estimated economic impact of \$2 million per game, and the Packers’ plan to fund the project without a public contribution.³³⁹ Moreover, the Packers are planning to add new scoreboards and to expand the Packers Hall of Fame by moving the Packers Pro Shop and Curly’s Pub to the adjacent east parking lot. Unfortunately, the Packers have also faced some unexpected adversity in their future development plans.

To date, construction of the retail and entertainment district has been slowed. Titledown’s first proposed retail anchor store, Bass Pro Shops, abruptly ended negotiations to come to Green Bay following the Wisconsin legislature’s decision to reclassify an area of wetlands in order to facilitate the development.³⁴⁰ A spokesman for Bass Pro Shops stated, “We were unaware of any wetland issue and have not and will not be in favor of doing anything to harm wetlands, wherever they might be.”³⁴¹ The loss of Bass Pro Shops is a definite blow to the projected success of Titledown, but competing outdoor retailer, Cabela’s, has already been rumored as a replacement. Other projected

335. Richard Ryman, *Lambeau Field Renovation Debt to be Paid Off Aug. 1*, GREEN BAY PRESS-GAZETTE, Jan. 20, 2011, at A6.

336. Rich Rovito, *Lambeau Field Expansion May Create ‘Wall of Sound’*, BUS. J. (MILWAUKEE) (July 4, 2010, 11:28 a.m.), <http://www.bizjournals.com/milwaukee/stories/2010/07/05/story6.html>; *Lambeau Field Expansion*, JSONLINE (Aug. 25, 2011), http://www.jsonline.com/multimedia/photos/128414938.html#id_55302458.

337. *Packers Asking Fans for Input on Potential Lambeau Field Changes*, NFL.COM (2010), <http://www.nfl.com/news/story?confirm=true&id=09000d5d81840a9a&template=with-video-with-comments>.

338. Tony Walter, *Seatbacks, Armrests Among Options on Survey Green Bay Packers Fans Get About Lambeau Field Expansion Plans*, GREEN BAY PRESS-GAZETTE, May 6, 2011, at GPG.

339. Richard Ryman, *Green Bay Packers Hall of Fame May Be Expanded*, GREEN BAY PRESS-GAZETTE, May 20, 2011, at PKR.

340. Wes Johnson, *Bass Pro Shops Rejects Wetlands Site Near Lambeau Field*, GREEN BAY PRESS-GAZETTE (Jan. 28, 2011, 5:25 a.m.), <http://www.greenbaypressgazette.com/article/20110128/GPG0101/101280534/Bass-Pro-Shops-rejects-wetlands-site-near-Lambeau-Field>.

341. *Id.*

uses of the Titledown District include a multi-use baseball stadium, a new indoor training facility, and a new hotel adjacent to the stadium.³⁴² Regardless of the options the Packers choose to implement, the Titledown District will be the clearest example of the success of the sports.comm concept because the Packers disclose their local revenues yearly; therefore, the drastic change in revenue production should be evident.

C. Bricktown District

The most successful utilization of the city-driven staged sports.comm model has been Oklahoma City's development of the Bricktown District, which has transformed a blighted area into a vibrant regional attraction. Once the city's warehouse district, the sports.comm has become its entertainment center through strategic public investment that has attracted private business from across the country. Today, Oklahoma City is known as the best place in America to launch a small business.³⁴³

Oklahoma City's warehouse district faced a crash in 1982 as a result of falling oil prices that led many companies to evacuate the oil-fueled downtown area.³⁴⁴ After ten years of decay, the City instituted its now-historic MAPS program, which primarily includes a one-cent sales tax.³⁴⁵ Beginning in 2003, its most visible success has been the creation of the Bricktown canal and river walk, but the MAPS program is responsible for most of the economic growth in downtown Oklahoma City throughout the last twenty years.³⁴⁶

Oklahoma City began to incorporate the sports.comm concept into its city revitalization plans on a staged basis by strategically acquiring and developing land to provide the most efficient uses for the city. The development of the sports.comm was made possible by the city's complete funding of the project, and was necessary due to the city government's need to allocate resources economically, efficiently, and fairly. The initial MAPS public investments were focused on four categories of the economy: the Traditional Economy, which focused on invigorating the depressed warehouse district economy; the Health Economy, by starting health initiatives in the area; the Culture and

342. Tony Walter, *Green Bay Packers Look to Expand Stadium District*, GREEN BAY PRESS-GAZETTE, Apr. 17, 2011, at A-1.

343. *Best Places to Launch: 2009*, CNNMONEY, http://money.cnn.com/smallbusiness/best_places_launch/2009/snapshot/241.html (last visited Oct. 23, 2011).

344. *The History of Bricktown*, NEWS9.COM, <http://www.news9.com/global/story.asp?s=7690410> (Last visited Dec. 8, 2011).

345. Executive Summary, Larkin Warner, *Impact Analysis of MAPS and Other Significant Central City Investments*, prepared for GREATER OKLAHOMA CITY CHAMBER OF COMMERCE, Sept. 2003, at 2.

346. *Id.* at 20.

Recreation Economy, which focused on making the city more livable and walkable; and the Low-Socioeconomic Status Economy, which focused on providing for the displaced and impoverished community in the downtown area.³⁴⁷ By staging the development process in this way, Oklahoma City was able to limit the risk inherent in such a large-scale real estate development, to increase public support for the project, and to successfully maximize the economic potential of the sports entertainment district within the city. Therefore, the goals of the development were unique because the stadium district plan had a dual focus on economic impact and community benefits.

In 2004, the Oklahoma City Council codified its intentions for the district by instituting a Downtown Strategic Action Plan, which set goals for marketing, private investment, and area business development.³⁴⁸ The plan called for a goal of \$350 million in private investment in Bricktown, which would match the total amount contributed by MAPS since 1993. Despite the city's unprecedented investment, the plan for the Bricktown District was also a unique public-private partnership. The government's role was to set a foundation for continued economic viability in the area by constructing the district's sports and entertainment anchor-facilities by synergizing the city's existing infrastructure. Thereafter, the city encouraged private commercial and retail investors to complete the entertainment district. By staging the development process, Oklahoma City was able to limit the risk inherent in such a large-scale real estate development, which made private investors more anxious to invest, and maximized the economic benefits of the sports.comm to the city.

The first major anchor in the Bricktown District was AT&T Bricktown Ballpark constructed in 1998. The stadium cost a total of \$34 million, but the cost was offset by a ten-year naming rights deal with AT&T that began in 2006 and has since been recouped by the stadium's overall economic impact on the district.³⁴⁹ Development of the district's first key sports anchor occurred concurrently with the construction of the Bricktown Canal.³⁵⁰ The canal has been an indispensable piece to the district's success by providing beauty, transportation, and a sense of cohesion to the community.³⁵¹ These two developments led to the district's first two commercial and retail coups

347. *Id.* at 7.

348. Brian Brus, *OKC's Downtown Makes Progress Toward Multi-Year Goals*, JOURNAL RECORD (Okla.), Oct. 24, 2007, at NEWS.

349. Brian Brus, *Home of Oklahoma RedHawks Renamed AT&T Bricktown Ballpark*, JOURNAL RECORD (Okla.), Mar. 3, 2006, at NEWS.

350. *See generally* Executive Summary, *supra* note 345.

351. *About Bricktown Water Taxi*, BRICKTOWN WATER TAXI, http://www.bricktownwatertaxi.com/about_us (last visited Oct. 23, 2011).

when Sonic Corporation built a large corporate office and Bass Pro Shops constructed an 110,000 square-foot outdoor recreation superstore in the area.³⁵²

The second phase of the sports.comm began when voters approved an extension of the sales tax for the construction of a 500,000-square-foot Ford Center to host concerts and sporting events. The building cost taxpayers a total of \$89 million, but that price also included a new library and infrastructure projects surrounding the arena.³⁵³ The Ford Center opened in 2002 with the hope of attracting a professional sports franchise, but settled for hosting concerts, minor league sports, and city-wide events during its first three years. However, in 2005, the New Orleans Hornets were forced to relocate from New Orleans to the Ford Center as a result of Hurricane Katrina, which gave the city a chance to prove itself as a regional destination.

The New Orleans Hornets were an immediate success at the Ford Center. In their first season, the Hornets ranked eleventh in the league in attendance and proved that Oklahoma City had potential as an NBA city and that the Bricktown District was capable of becoming a regional destination. After one year, the Hornets had an overall economic impact of \$66.4 million on the state and generated a total of \$4.6 million in tax revenues.³⁵⁴ The excitement over the Hornets continued entering their second season at the Ford Center, despite the fact that an Oklahoma-based investment group had recently purchased the Seattle Supersonics in 2006 with the intention of relocating the team to Oklahoma City.³⁵⁵ In the face of the excitement about the Hornets, the city's desire for a permanent team was at an all-time high. As the president of Downtown OKC, Inc. explained, "I view a pro team as an investment in the city that provides an economic impact and job growth for the entire city."³⁵⁶

Clay Bennett's investment group purchased the Seattle Supersonics after their previous ownership group was unable to secure a new arena for the franchise. Following a public outcry in Seattle against moving the team to Oklahoma City, the city council allowed voters to decide whether or not to extend the one-cent MAPS sales tax to create \$120 million worth of financing

352. Executive Summary, *supra* note 345, at 16–17.

353. Kelley Chambers, *These Walls: The Ford Center in Downtown OKC*, JOURNAL RECORD (Okla.), June 2, 2008, at NEWS.

354. Jerry Shottenkirk, *A Future in the Game: NBA has Multiple Avenues for OKC*, JOURNAL RECORD (Okla.), July 20, 2006, at NEWS.

355. Jerry Shottenkirk, *Local Interest in New Orleans/OKC Hornets Hasn't Faded as Team Enters Second Season in OKC*, JOURNAL RECORD (Okla.), Oct. 4, 2006, at NEWS.

356. Darren Currin, *The Three "Ls" of Downtown OKC: Leasing, Living, and Leisure*, JOURNAL RECORD (Okla.), Feb. 14, 2008, at COMMENTARY.

in order to upgrade the Ford Center for an NBA team.³⁵⁷ With little opposition, the City passed the measure, and Oklahoma City was named the new home of the Oklahoma City Thunder.³⁵⁸

With an NBA tenant in the newly-named Oklahoma City Center, a successful AAA Minor League Baseball franchise at AT&T Bricktown Ballpark, and the completion of a \$63 million convention center, Oklahoma City has provided the infrastructure necessary for private residential, commercial, and retail businesses to flourish. Most importantly, to accommodate overnight guests, the Bricktown District has created a total of 1600 downtown hotel rooms and plans to include a total of 2250 units upon completion of the development.³⁵⁹ Beyond hotels, the city council has set a goal of creating 2000 new permanent housing units in the district, of which 1400 units have been completed.³⁶⁰ Housing units include market-priced condominiums, high-end townhomes, and low-income housing. Construction of a \$36 million, twelve-story mixed-use condominium, retail, and office space is also underway.³⁶¹ Most recently, the city council has approved funding for a TIF district to support the creation of the Center City Residential project, a 230 single-family unit structure set to open in 2012.³⁶²

While the housing phase was being constructed, the City focused its auxiliary developments on creating dining and nightlife options for the Bricktown District. Bricktown features many popular national bars like Coyote Ugly and Toby Keith's I Love This Bar and Grill, and high-end clubs for the districts' affluent guests.³⁶³ The creation of a walkable downtown environment was also a key for connecting the district's sports venues, hotels, bars, and restaurants. To create a connected environment, the city council instituted the Downtown Streetscape Master Plan in 2006 to plan and maintain a cohesive streetscape as development expanded and changed hands from public to private investors.³⁶⁴ The plan provides for uniform light polls, trash

357. Brian Brus, *OKC Council to Ask Citizens for Money to Accommodate NBA Team*, JOURNAL RECORD LEGIS. REP. (Okla.), Dec. 21, 2007.

358. Brian Brus, *OKC-Based Ford Center Upgrade: The Ball is in the Voters' Court*, JOURNAL RECORD (Okla.), Jan. 3, 2008, at NEWS.

359. Brian Brus, *OKC Visitors Fill Rooms, Look for More Downtown Retail Options*, JOURNAL RECORD (Okla.), June 4, 2009, at NEWS.

360. *Id.*

361. Kelley Chambers, *Bricktown Mixed-Use Project on Track*, JOURNAL RECORD (Okla.), Jan. 18, 2008, at NEWS.

362. Darren Currin, *TIF Projects Fuel Growth Throughout Oklahoma*, JOURNAL RECORD (Okla.), Nov. 11, 2010, at COMMENTARY.

363. Kelley Chambers, *Three New Nightclubs to Open in Oklahoma City's Bricktown*, JOURNAL RECORD (Okla.), Feb. 27, 2009, at NEWS.

364. Kelley Chambers, *Come Take a Walk Downtown; OKC Looks to Become Pedestrian-*

cans, and informational signage, while allowing each distinct downtown district to maintain its unique character.³⁶⁵

As the Bricktown District's infrastructure started to take shape, the balance between public and private investment began to equalize. Following the sports venue anchor, residential, and dining phases of development, Bricktown was in desperate need of retail and amusement options to satisfy daytime tourists.³⁶⁶ Until 2009, Bass Pro Shops was the only retail store available to shoppers.³⁶⁷ The retail development phase of the Bricktown District is included in the City's plans to attract over 200,000 square feet of overall downtown retail development.³⁶⁸ Many of the confirmed outlets are eclectic, which affirms the City's desire to create a unique entertainment destination. Retailers include Red Dirt Marketplace, a 6000-square-foot clothing store and International Riders, a motorcycle rental store.³⁶⁹ The City has also attempted to brand itself as the musical mecca of the region. As evidence, Oklahoma City is home to the Academy of Contemporary Music, the \$52 million Civic Center Music Hall, and a Banjo Museum.³⁷⁰

The Bricktown District's unique offerings extend to other entertainment options throughout the area. Bricktown's entertainment options begin with the Harkings Bricktown 16 cinema and numerous live music venues. The movie theater has remained a steady source of crowds since its opening night.³⁷¹ The district has also earned a reputation as a regional destination for gourmet foods.³⁷² In contrast to its focus on the arts, Bricktown also seeks to attract additional sports fans to cheer its recently-acquired Indoor Football League franchise.³⁷³ The district also seeks to attract more adventurous visitors to one of the premier indoor climbing centers in the country, OKC Rocks Climbing Silo. Created from a refurbished grain silo, the indoor climbing walls are

friendly, JOURNAL RECORD (Okla.), Mar. 13, 2009, at NEWS.

365. *Id.*

366. Kelley Chambers, *OKC's Bricktown Development on Agenda*, JOURNAL RECORD (Okla.), Apr. 16, 2009, at NEWS.

367. *OKC Visitors Fill Rooms*, *supra* note 359.

368. April Wilkerson, *Retail Refill: Planned Restaurants, Stores to Counter Downtown Oklahoma City Vacancies*, JOURNAL RECORD (Okla.), Sept. 24, 2010, at NEWS.

369. *Id.*

370. Executive Summary, *supra* note 345, at 4, 14.

371. Darren Currin, *Lot Lines: Stable Year for Cinemas*, JOURNAL RECORD (Okla.), May 1, 2009, at COMMENTARY.

372. Kelley Chambers, *Retailers Follow Oklahoma City Downtown Housing Growth; Gourmet Market to Open in Deep Deuce Area*, JOURNAL RECORD (Okla.), Mar. 31, 2009, at NEWS.

373. Brian Brus, *OKC Council Approves License for Indoor Football League Team*, JOURNAL RECORD (Okla.), Dec. 7, 2010, at NEWS.

some of the tallest in the country.³⁷⁴ Other attractions include an interactive 3-D amusement ride, one-of-a-kind McDonald's restaurant,³⁷⁵ and a comedy club.³⁷⁶ As unique retail and entertainment options began drawing larger crowds to the district, the city council initiated plans to invest in upgraded infrastructure, such as expanded sidewalks, footbridges, and potentially, street cars.³⁷⁷

As a staged sports.comm, a true judgment of the Bricktown District's economic impact cannot be concluded until the development is complete. However, even as an incomplete entertainment district, Bricktown has revolutionized Oklahoma City.³⁷⁸ By contributing a steady one-cent sales tax to the city's public infrastructure investment fund since 1993, taxpayers have successfully transformed a previously blighted area into the city's most popular tourist attraction. Recently, Oklahoma City was named *Forbes* sixth most livable city in 2009 and the most recession-proof city in America in 2008.³⁷⁹ Future construction is likely to only enhance the city's reputation further as the Bricktown District will transform the Oklahoma City skyline with the future addition of the 40-story, \$400 million Devon Tower, which will be the largest building in the city.³⁸⁰ With smart investment, strong political will, and private sector support, Oklahoma City has used the staged development of sports and entertainment venues to reinvent its national identity.

D. The Platinum Triangle

In contrast to Oklahoma City, which constructed its staged sports.comm by utilizing new sports venues as anchor facilities around existing entertainment and recreational infrastructure, the City of Anaheim developed its sports.comm by renovating and connecting its existing sports and

374. Brian Brus, *Former Grain Silo in Downtown Oklahoma City Makes Wonderful Rock Climbing Gym*, JOURNAL RECORD (Okla.), Apr. 27, 2007, at NEWS.

375. Kelley Chambers, *Bricktown Tailor-Made McDonald's in OKC Moves Ahead in Approval Process*, JOURNAL RECORD (Okla.), Oct. 11, 2007, at NEWS.

376. Kelley Chambers, *Oklahoma City's Bricktown Works to Lure Uniqueness*, JOURNAL RECORD (Okla.), June 8, 2009, at NEWS.

377. Marie Price, *Central OK Transportation Officials Examine Possibility of Streetcars*, JOURNAL RECORD LEG. REP., Apr. 18, 2006.

378. Brian Brus, *Basketball Boom: Oklahoma City Thunder Bringing Business to Bricktown*, JOURNAL RECORD (Okla.), Apr. 27, 2010, at NEWS.

379. Ben Johnson, *Better Than OK*, NAT'L REAL ESTATE INVESTOR (July 1, 2009, 12:00 PM), <http://neionline.com/news/areas/oklahoma-city-public-private-partnerships-0729/>.

380. Kelley Chambers, *OKC Roundtable: Devon's Plans for New Tower and Its Effect on Downtown Oklahoma City*, JOURNAL RECORD (Okla.), May 23, 2008, at NEWS.

entertainment facilities. The existing anchor facilities to be utilized in the Platinum Triangle staged development include: Angels Stadium, the Honda Center, and City National Grove of Anaheim, a live music and theatre venue.³⁸¹ This area was ideal for the development of a sports.comm because there was a strong residential demand in the area, large availability of land for new housing, a need for revitalization, and a location that was at the confluence of three freeways, which made it an ideal tourist destination.³⁸² Though still under development, the 820-acre project will be funded by approximately \$260 million in bonds that will be financed through the establishment of a TIF district within the Platinum Triangle.³⁸³

The location of the Platinum Triangle is advantageous for the City of Anaheim because its proximity to existing and future railway transportation is likely to increase property values.³⁸⁴ The city's current train station is to the north of Angel Stadium, but part of the Platinum Triangle development includes a new \$184 million Anaheim Regional Transportation Intermodal Center (ARTIC).³⁸⁵ To accommodate future high-speed rail traffic, the city has also approved an additional \$100 million in financing from Measure M, a half-cent county sales tax used to pay for transportation projects.³⁸⁶ Though no high-speed rail is currently scheduled to be built through Anaheim, the city hopes a bullet train will eventually connect San Francisco, Anaheim, and Las Vegas.³⁸⁷

The City of Anaheim sought to achieve both an economic and cultural revitalization through the development of the Platinum Triangle sports.comm. The city's goal was to balance and integrate land uses by connecting residential, retail, and industrial facilities with walkable streets, open spaces, and a consistent landscape.³⁸⁸ It also sought to link employment and housing so that each supports and facilitates the other. This was accomplished by attaching first-floor retail shops to each condominium or apartment

381. *The Platinum Triangle in Anaheim, CA*, SOUTHERN CAL. ASSOC. OF GOV'TS 1, 2 (Mar. 2008), available at http://www.compassblueprint.org/files/htai_platinum.pdf.

382. *Id.* at 7.

383. *Id.*

384. *The Platinum Triangle – Where Corporate and Residential Opportunities Meet*, CITY OF ANAHEIM, www.anaheim.net/article.asp?id=1161 (last visited Oct. 23, 2011).

385. Dan Weikel, *Transit Committee Backs Mega Station in Anaheim Amid Funding Questions*, L. A. TIMES (Jan. 13, 2011, 6:09 PM), <http://latimesblogs.latimes.com/lanow/2011/01/transit-committee-backs-mega-station-in-anaheim-amid-questions-about-funding-and-high-speed-rail.html>.

386. *Id.*

387. *Id.*

388. *Introduction*, PLATINUM TRIANGLE MASTER LAND USE PLAN 11, available at <http://www.anaheim.net/departmentfolders/planning/PT/Chapter1.pdf>

structure.³⁸⁹ Such a design also promoted the goal of creating a neighborhood feel in an urban setting. Moreover, by integrating the district's residential and retail developments, the city was able to stimulate future office development because few regional urban locations offer both.³⁹⁰

By creating a livable and walkable attraction in downtown Anaheim, the city has been successful at increasing land values. By simply rezoning the land to allow for high-density housing, the city has increased land values within the district by up to \$5 million per acre.³⁹¹ The city has also adopted various "traffic calming" measures to reduce noise, decrease air pollution, and enhance pedestrian activity in the area.³⁹² Anaheim has transformed "superblocks" created by abandoned parking lots and warehouses into smaller, more useful city blocks.³⁹³ It has also narrowed streets, expanded sidewalks, and beautified the district landscape with trees, urban parks, and thematic street lights to encourage pedestrian traffic. The focal point of this revitalization has been Market Street, which the city has specifically designed to mimic bustling local streets like Larchmont Boulevard in Los Angeles, Union Street in San Francisco, and Gaylord Street in Denver's Lower Downtown.³⁹⁴

Future development of the Platinum Triangle will focus on upgrading the Honda Center to become the future home of an NBA franchise.³⁹⁵ To attract a team, most likely the Sacramento Kings, the Anaheim City Council voted unanimously to extend \$75 million worth of bond financing to upgrade its existing facilities and infrastructure.³⁹⁶ However, the bonds will be funded entirely by private investment firms, to be paid back within a ten-year period; therefore, the city and taxpayers face no liability.³⁹⁷ A total of \$25 million has currently been allocated for upgrades to the Honda Center and \$50 million has

389. See *The Platinum Triangle Vision*, PLATINUM TRIANGLE MASTER LAND USE PLAN 12 (Aug. 21, 2007), available at <http://www.anaheim.net/citydepartments/planning/projects/Platinumtriangle/docs/TPTMLUP/Section%20%20-%20The%20Platinum%20Triangle%20Vision.pdf>.

390. *Id.*

391. Bobbi Murray, *A Tale of Two Anaheims*, BOBBI MURRAY (June 23, 2008), <http://bobbimurray.com/anaheim.html>.

392. JEFF KENWORTHY & PETER NEWMAN, SUSTAINABLE CITIES READER 123 (2009).

393. *The Platinum Triangle Vision*, *supra* note 389.

394. *Id.*

395. Suzanne Hurt, *Anaheim Approves \$75 Million in Bonds for Kings, Honda Center*, SACRAMENTO PRESS (Mar. 29, 2011), http://www.sacramento.com/headline/48249/Anaheim_approves_75_million_in_bonds_for_Kings_Honda_Center.

396. *Id.*

397. *Id.*

been set aside for working capital.³⁹⁸ Despite a tentative deal with the Kings that recently fell through, the Honda Center's upgrades are likely to move forward in the hopes of luring the Kings or another NBA franchise to Anaheim in the near future.³⁹⁹

Criticism of Anaheim's Platinum Triangle project has been targeted at the lack of affordable housing proposed under the city's plan to create over 18,000 residential units within the district.⁴⁰⁰ Through 2010, only 1600 units have been completed, and construction has slowed due to the decrease in demand caused by the recession.⁴⁰¹ Completed projects include Park Viridian Apartments, 1818 Apartments, Anavia Condominiums, and Avalon Angel Stadium, a mixed-use apartment and retail facility.⁴⁰² The Platinum Triangle's largest residential projects like Lennar's A-Town Metro, The Experience at Gene Autry Way, and Platinum Gateway are currently on hold while developers wait for a revival of the upscale apartment and condominium market.⁴⁰³ However, there is a current demand for affordable housing to accommodate low-income workers in the district, which has put pressure on the city to approve residential projects that satisfy a broader range of income levels.

Though still under development, the Platinum Triangle is a great example of how a city can utilize the staged sports.comm concept to revitalize a city by connecting and improving its existing tourist attractions. While most sports.comms attempt to "trap" consumers in vast retail developments, Anaheim highlights the more conservative and less expensive approach to encouraging pedestrian activity by improving transportation infrastructure, promoting residential development, and beautifying a city. The Platinum Triangle also demonstrates how a staged sports.comm can be an ideal solution to satisfying the existing housing, employment, or entertainment needs of a city.

398. *Id.*

399. Arash Markazi, *Honda Center Renovation Plan Set*, ESPN LOS ANGELES (June 16, 2011), <http://sports.espn.go.com/los-angeles/nhl/news/story?id=6670740>.

400. Murray, *supra* note 391.

401. Eric Carpenter, *Massive Expansion Plans Renewed Near Angel Stadium*, ORANGE COUNTY REGISTER (Aug. 16, 2010), http://articles.ocregister.com/2010-08-16/cities/24645893_1_platinum-triangle-sheri-vander-dussen-massive-expansion-plans.

402. *Development Update*, PLATINUM TRIANGLE MASTER LAND USE PLAN (Sept. 2011), available at <http://www.anaheim.net/departments/planning/DevelopmentUpdate/PT.pdf>.

403. *Id.*

V. DELAYED OR FAILED SPORTS.COMM

The recessionary economy that has drastically impacted real estate development throughout the country has uniquely affected the investments of both the public and private parties involved in the creation of a sports.comm. Real estate is not only whacking Wall Street and Main Street, but also the sports industry, which has made it difficult to create successful mixed-use real estate development. From the public side, government deficits, lower bond ratings, a lack of public appetite for use of public funds to create any type of sports facilities, reluctance to create TIF districts, and priorities in spending have affected the public's ability to bring to fruition mixed-use real estate developments. From the private side, difficulty in obtaining financing, difficulty in refinancing existing projects, real estate assets that are under water as a result of the decrease in fair market value, a risk-free lending environment, and tenant contraction and liquidation have also affected the ability to bring to fruition mixed-use real estate developments. The psyche of growth, expansion, and development has also been met with resistance because of an absence or lessening of discretionary spending, frozen credit markets, availability of ready cash and depletion of reserves, loss of net worth of companies and individual guarantors, loan delinquencies, foreclosures, vacancies, bankruptcies and chapter proceedings, unemployment or underemployment, bank failures, and distressed assets.

The recession has negatively affected every sports.comm throughout the country to some degree, but a few prominent sports.comm developments have failed or have been significantly delayed. The best examples of failed or delayed sports.comms include the Westgate City Center, home of the Phoenix Coyotes; Ballpark Village in St. Louis, home of the St. Louis Cardinals; Glorypark, home of the Dallas Cowboys and Texas Rangers; Victory Park, home of the Dallas Mavericks and Dallas Stars; New Meadowlands, home of the New York Giants and New York Jets; and Atlantic Yards, the future home of the New Jersey Nets.

A. *Westgate City Center*

After their move from Winnipeg in 1996, the Phoenix Coyotes were forced to accept an unfavorable lease to share the America West Arena (AmWest, currently US Airways Arena) with the Phoenix Suns.⁴⁰⁴ AmWest was not built for hockey, which meant that 4000 of the 16,000 hockey seats

404. Kurt Badenhause & Michael Ozanian, *How a Small-Time Developer Leveraged a Poor Hockey Team Into a Rich Real Estate Deal*, FORBES (Dec. 23, 2002), http://www.forbes.com/free_forbes/2002/1223/098.html.

had obstructed views and had to be sold at a discount for every game.⁴⁰⁵ Under the terms of the lease with AmWest, Suns owner Jerry Colangelo retained nearly all revenues from concessions, sponsorships, and nonhockey events.⁴⁰⁶ This was especially detrimental to the Coyotes in the NHL context because the thirty teams shared only twelve percent of their revenues, which was by far the lowest percentage of all professional sports.⁴⁰⁷ In 1997, without the necessary revenue streams available at AmWest to stay economically competitive in the NHL, Coyotes owner Richard Burke (Burke) began working with Steve Ellman (Ellman) to construct a new NHL arena and entertainment district in Glendale, Arizona.

In 2001, after Burke and Ellman were unable to obtain the necessary zoning permits and public financing to support a new facility, Burke decided to sell the team. In February 2001, Ellman partnered with Wayne Gretzky (Gretzky) to buy the team for \$127 million.⁴⁰⁸ With a legendary new partner, Ellman was able to garner the political support necessary to rezone a 223-acre parcel in Glendale, Arizona for commercial use in order to create what is now known as the Westgate City Center. With the land and zoning permits in place, Ellman, Gretzky, and new partner Jerry Moyes (Moyes) began working with the City of Glendale to develop a new hockey arena and the Westgate City Center sports.comm, which was projected to cost \$850 million.⁴⁰⁹

Unlike every other state in America, Arizona does not allow TIF financing; therefore, the ownership group and the city were forced to strike a deal without utilizing the projected revenue increases that the Jobing.com Arena and Westgate City Center would provide. Despite a limited financial toolbox, the City of Glendale unanimously approved a \$180 million arena deal with the ownership group in April of 2001.⁴¹⁰ Pursuant to the agreement, Ellman agreed to buy roughly 220 acres of vacant land, obtain loans to build a 17,500-seat hockey arena, be responsible for all arena cost overruns, and be liable for some of the arena debt in the event that he was unable to complete the sports.comm surrounding the arena.⁴¹¹ In return, the City of Glendale promised to buy the arena for a price of \$180 million.⁴¹²

405. *Id.*

406. *Id.*

407. *Id.*

408. *Id.*

409. *Id.*

410. Craig Harris, *Coyotes Go to Glendale: City Quickly OKs \$180 Million Arena Deal*, ARIZ. REPUBLIC, Apr. 12, 2001, at 1A.

411. *Id.*

412. *Id.*

After years of struggling in AmWest, the Phoenix Coyotes deal with Glendale was too good to be true. In December 2003, the Coyotes moved into the new Jobing.com Arena.⁴¹³ The City of Glendale provided a total of \$183 million for the cost of the arena, \$155 million from municipal bonding, which was paid for through increased sales taxes and parking revenues.⁴¹⁴ The unique public-private partnership meant that Ellman owned the land, but the City of Glendale owned the arena itself.⁴¹⁵ This partnership was beneficial for Ellman because the team received all arena revenue streams, was not responsible for the arena ownership costs, and paid no rent for the first ten years in the arena.⁴¹⁶ However, in return for such economically-advantageous lease terms, the team was also required to agree to a thirty-year nonrelocation clause that required the Coyotes to stay in Glendale or to pay a \$750 million relocation fee.⁴¹⁷

Though the Jobing.com Arena was built quickly, the bonds used to back the construction were based on projected increases in tax revenue generated by Ellman's proposed commercial developments surrounding the arena. Development was drastically delayed, which caused financing problems for the project as a whole and subjected Ellman to fines up to \$1 million for the delays.⁴¹⁸ Phase I of the Westgate City Center was scheduled to open in June of 2004, but due to an overly aggressive startup plan and the project's complexity, did not open until November of 2006. As a result of the two-year delay, Ellman was forced to pay two separate fines of \$1 million.⁴¹⁹ Meanwhile, the Coyotes alone were not sufficiently enticing to draw fans from Phoenix to the suburb of Glendale, and after three seasons in the arena the team had accumulated nearly \$65 million in debt.⁴²⁰ In order to save the development, Moyes and Ellman reached a separation agreement that gave Moyes and Gretzky full control of the Coyotes and allowed Ellman to buy out Moyes' remaining interest in the Westgate City Center development.⁴²¹

413. *JoBing.com Arena*, BALLPARKS BY MUNSEY AND SUPPES, <http://hockey.ballparks.com/NHL/PhoenixCoyotes/newindex.htm> (last visited Oct. 16, 2011).

414. Harris, *supra* note 410.

415. *Id.*

416. *Id.*

417. Rebekah L. Sanders, *Coyotes Avoid Rent Fines*, ARIZ. REPUBLIC, Mar. 4, 2009, at 5.

418. Pat Flannery, *Ellman Pushed to Begin Development of Westgate*, ARIZ. REPUBLIC, May 25, 2004, at 1B.

419. Steve Wong, *Developer Owes Glendale a Second \$1 Million Fine*, ARIZ. REPUBLIC, July 26, 2006, at 5.

420. Craig Harris & David Vest, *Coyotes Owners Break Up*, ARIZ. REPUBLIC, Apr. 13, 2006, at 1D.

421. Ryan Gauthier, *In re Dewey Ranch Hockey*, 1 HARV. SPORTS & ENT. L.J. 1, 185 (2010).

The anchor of Phase I of the Westgate development was the AMC Westgate 20 movie theater, which features contemporary screens, seating, concessions, and ticketing.⁴²² Beyond the theater, Phase I focused on the entertainment center's infrastructure and restaurant options to satisfy the current fans drawn by the Coyotes. The infrastructure improvements included more than thirty Times Square-style media boards throughout the site, a 60,000-gallon water fountain modeled after the Bellagio in Las Vegas, and Miami-inspired green and orange color schemes throughout the facility.⁴²³ The initial construction also included nearly twenty restaurants such as the popular Margaritaville Café, Gordon Biersch Brewery Restaurant, and Saddle Ranch Chop House.⁴²⁴ Phase I also included a twelve-story Renaissance Hotel and Convention Center that was not completed until 2007.⁴²⁵

In retrospect, the split between Moyes and Ellman doomed the Westgate City Center development. Ellman was able to escape the economic burden of the Phoenix Coyotes franchise, which eventually led Moyes to file for Chapter 11 bankruptcy protection in 2009.⁴²⁶ Moyes' bankruptcy court had the power to force the sale of the Coyotes and to allow the buyer to break Glendale's nonrelocation agreement, but given the city's investment in the sports.comm, the court insisted that the Coyote's buyer must honor the lease or pay the \$750 million relocation fee because the city had invested a total of \$511 million into the project.⁴²⁷ Despite escaping the Coyotes' bankruptcy, the inability to find a buyer for the Coyotes stalled the development of Westgate and ultimately led to the demise of Ellman.⁴²⁸

The United States recession also contributed to the failure of Westgate. Since Phases II and III of Westgate were delayed, the Phase I bars and restaurants struggled because they depended on the increased foot traffic of the retail and residential phases.⁴²⁹ This struggle left Ellman unable to stay current on the loans used to finance the Westgate development. Ellman utilized a \$97.5 million loan from iStar Financial and multiple loans from

422. *AMC Westgate*, WESTGATE CITY CENTER, <http://www.westgatecitycenter.com/amc-westgate-20/> (last visited Oct. 16, 2011).

423. Scott Wong, *A New City Center; Complex Turns Empty Space Into Urban Hub*, ARIZ. REPUBLIC, Nov. 17, 2006, at 1.

424. *Id.*

425. *Hotels at Westgate City Center*, WESTGATE CITY CENTER, <http://www.westgatecitycenter.com/hotels.php> (last visited Oct. 20, 2011).

426. *In re Dewey Ranch Hockey, LLC*, 406 B.R. 30 (Bankr. D. Ariz. 2009).

427. *Id.*

428. Rebekah L. Sanders, *Westgate Changed Face of Glendale*, ARIZ. REPUBLIC, June 28, 2011, at B1.

429. Carrie Watters, *Westgate Weathering Downturn*, ARIZ. REPUBLIC, Dec. 13, 2008, at 3.

Credit Suisse totaling \$376 million to develop the entertainment district.⁴³⁰ In November 2008, Ellman failed to make balloon payments on many of the loans and ultimately defaulted.⁴³¹ An auction was scheduled for September 19, 2011, to sell the Westgate buildings that secured the iStar loan.⁴³² The land around Westgate will go to auction in the future to satisfy the Credit Suisse loan.⁴³³

Though Westgate has failed to reach its full potential, the concentric circle effect has caused the areas surrounding the sports.comm to achieve enormous growth, which has provided Glendale with the necessary tax revenues that Westgate has been unable to provide. Across the street from Westgate is the new Zanjero District, which includes a Cabela's outdoor superstore, other retail outlets, condominiums, and office buildings.⁴³⁴ The Westgate City Center is also responsible for the 2009 completion of Camelback Ranch, the Los Angeles Dodgers and White Sox spring training facility.⁴³⁵ In its first season, Camelback Ranch broke the Cactus League attendance record four times.⁴³⁶

As the Westgate City Center goes to auction, the NHL and the City of Glendale have been unable to find a buyer for the Coyotes, which is the key to a revitalized Westgate sports.comm. Since Moyes' bankruptcy, the city has paid the NHL \$25 million per year to cover arena operating costs, but has yet to find an owner.⁴³⁷ Recently, the city had worked out an agreement with Matthew Hulsizer to purchase the arena, who also was negotiating with the NHL to buy the team.⁴³⁸ The deal would have required the city to pay \$100 million in bonds to cover arena operating costs in return for the rights to parking fees.⁴³⁹ The deal was nearly completed until the Goldwater Institute threatened to sue the city for offering public subsidies to a private business in violation of Arizona law.⁴⁴⁰ The Institute also convinced bond traders to stay

430. Sanders, *supra* note 428.

431. *Id.*

432. *Id.*

433. *Id.*

434. *Districts at Zanjero Set to Break Ground*, W. VALLEY VIEW, <http://westvalleyview.com/main.asp?SectionID=13&SubSectionID=8&ArticleID=22119&TM=84251.22> (last visited Dec. 14, 2011).

435. Amy Wang, *Jobing.com Arena Created 'Synergy'*, ARIZ. REPUBLIC, Apr. 9, 2010, at 3.

436. *Id.*

437. *Coyotes to Remain in Glendale Next Year*, ESPN (May 11, 2011, 8:59 PM), <http://sports.espn.go.com/nhl/news/story?id=6524858>.

438. *Id.*

439. *Id.*

440. *Id.*

away from the city's bond auction, which ultimately caused the deal to fall through.⁴⁴¹ There was hope that other potential buyers would emerge when the Glendale City Council reconvened in August 2011.⁴⁴²

The Westgate City Center development highlights the potential and risks associated with the construction of a sports.com. By accepting Ellman's proposal after Scottsdale had refused, the City of Glendale transformed itself into the mecca for professional sports in Arizona. By building an NHL arena, the city cemented itself as a receptive community and was able to convince the Arizona Cardinals to build their new revenue-generating facility, University of Phoenix Stadium in Glendale, which gave the city the national recognition it lacked prior to the development of the Westgate sports.com. Regardless of whether Westgate is able to retain the Phoenix Coyotes, the sports.com will likely remain viable based on the proximity of the Arizona Cardinals' University of Phoenix Stadium and the retail development's potential for future economic growth, which should easily attract a new tenant to be its sports anchor.⁴⁴³

B. Ballpark Village – Busch Stadium

The St. Louis Cardinals attempted to create a sports.com with Ballpark Village, a proposed mixed-use entertainment district that was to be built on the six blocks surrounding new Busch Stadium, which opened in 2006.⁴⁴⁴ Unfortunately, there is no better example of a real estate whacking than Ballpark Village. Ballpark Village was designed to be a grandiose redevelopment project of retail shops, restaurants, residential units, office space and parking. The 2009 MLB All-Star Game was supposed to be a showcase for not only the new ballpark, but also the development that was supposed to follow.⁴⁴⁵ Instead, the Ballpark Village area was an open pit, which the St. Louis Cardinals were forced to temporarily dress up for the 2009 All-Star festivities.⁴⁴⁶

The stadium cost a total of \$365 million, which was almost entirely

441. *Id.*

442. *Glendale Closer to Finding Coyotes Buyer*, REVENUES FROM SPORTS VENUES NEWSLETTER, June 30, 2011.

443. Cecilia Chan, *'Tea Party' Group Dissatisfied with Answers on Coyotes Deal*, ARIZ. REPUBLIC, Mar. 12, 2011, at 8.

444. *About*, BALLPARK VILL., <http://www.stlballparkvillage.com/> (last visited Oct. 23, 2011).

445. Ray Hartmann, *Why We Aren't (Ballpark) Village People*, STLMAG.COM (July 2009), available at <http://www.stlmag.com/St-Louis-Magazine/July-2009/Why-We-Aren-039t-Ballpark-Village-People/#>.

446. *Id.*

privately funded except for a \$45 million loan from St. Louis County.⁴⁴⁷ Ballpark Village was projected to cost another \$300 million more, but required a larger public contribution.⁴⁴⁸ The initial proposal for Ballpark Village included a 1900-space parking garage; a 400-unit, 21-story residential building overlooking the stadium; 470,000 square feet worth of office space; 110,000 square feet of commercial and retail space; a 16,000-square-foot Cardinals baseball museum; and a 94,000-square-foot entertainment attraction (such as an aquarium).⁴⁴⁹ The plan was approved by the City of St. Louis in 2007, which pledged \$115 million in bond financing for the project to be funded through a TIF district.⁴⁵⁰

The initial plan for the project was divided into two development phases. Phase I included the development of the southern portion of Ballpark Village, which was to commence by April 2006 and to be completed within five years.⁴⁵¹ Similarly, Phase II involved construction of the Northern Village, which was expected to begin by April 2009, and was also to be completed within five years.⁴⁵² In return for the city's public contribution, the Cardinals agreed to guarantee completion of Ballpark Village.⁴⁵³ Failure to develop the first phase would have resulted in the payment of liquidated damages of up to \$100 million.⁴⁵⁴ If the Cardinals failed to meet the deadlines on the second phase, a portion of the land was to be reconveyed to the city.⁴⁵⁵ The Cardinals also agreed to a profit-sharing clause which forced the team to provide the city with a portion of any profits made if a significant portion of the team was sold.⁴⁵⁶

By 2008, the Cardinals had nearly \$200 million in outstanding private bond debt and another \$17 million in annual debt service from its privately funded stadium, which was to be paid utilizing the expected increase in real

447. Busch Stadium, BALLPARKS BY MUNSEY AND SUPPES, <http://www.ballparks.com/baseball/national/stlbpk.htm> (last visited Oct. 30, 2011).

448. Joel K. Goldstein, *From Blueprints to Bricks: A Survey of Current Baseball Stadium Financing Projects*, 34 URBAN L. 397, 402–03 (2002).

449. *Id.* at 402.

450. Lisa Brown, *City Greenlights Ballpark Village Project*, ST. LOUIS BUS. J. (Feb. 9, 2007), <http://www.bizjournals.com/stlouis/stories/2007/02/05/daily57.html>.

451. Goldstein, *supra* note 448, at 402.

452. *Id.*

453. *Id.* at 402–03.

454. *Id.*; see Section 12.3 *Certain Equitable or Liquidated Damages* in *Journal of the Senate*, MO. SENATE (May 3, 2002) available at <http://www.senate.mo.gov/02info/pdf-jrml/Day65.pdf>.

455. Goldstein, *supra* note 448, at 402–03.

456. *Id.* at 402.

estate tax revenues from Ballpark Village.⁴⁵⁷ Moreover, the Cardinals were also unable to find any creditors willing to extend the necessary money to complete the Ballpark Village project. Unlike other failed sports.comm developments that never began construction, the failure of Ballpark Village is symbolized by a vacant hole in the ground at the home of the demolished Old Busch Stadium. Despite the failure to develop Ballpark Village to date, the city has not exercised its option to obtain liquidated damages or to recover a portion of the Ballpark Village land.

The recession has also increased the aggressiveness of public watchdog groups opposed to public subsidies for sports facilities. Pursuant to the profit-sharing clause in the agreement between the team and the city, the Coalition against Public Funding for Stadiums alleged that the sale of thirteen percent of the Cardinals team, after multiple owners sold their shares in 2010, triggered the clause requiring the team to share its profit with the city. However, the Cardinals argued that the profit-sharing clause was only triggered if the sale was valued at over \$180 million; therefore, the profits from the sale were not shared by the team.⁴⁵⁸ The city has not attempted to collect their portion of the sale proceeds.

The difficulty getting the Ballpark Village project moving forward cannot be attributed to a lack of fan support in St. Louis. In March 2011, the St. Louis Regional Chamber and Growth Association released a report that the 2011 Cardinals season would deliver a \$313.6 million economic boost to the St. Louis region.⁴⁵⁹ Moreover, out-of-town visitors have historically constituted forty percent of Cardinals attendance.⁴⁶⁰ St. Louis continues to be one of the best baseball towns in MLB. While St. Louis is the eighteenth-largest metro area, its 2010 season attendance of 3,301,218 put it at number four for attendance for all MLB teams.⁴⁶¹

After two years of delay, the Cardinals revised their proposal and the city approved a revised financing structure on January 19, 2011.⁴⁶² The first

457. Tom Van Riper, *Where Real Estate is Whacking Sports*, FORBES (July 7, 2009), <http://www.forbes.com/2009/07/14/real-estate-pro-sports-business-sports-real-estate.html>.

458. *City Releases Names of MLB Cardinals Owners Who Sold Shares*, SPORTS BUS. DAILY (Dec. 8, 2010), <http://www.sportsbusinessdaily.com/Daily/Issues/2010/12/Dec-8/Franchises/cards.aspx>.

459. *2011 Baseball Season Forecast to be \$313.6 Million Boost for Regional Economy, RGCA Economic Impact Analysis Concludes*, ST. LOUIS REG. CHAMBER & GROWTH ASSOC. (Mar. 30, 2011), <http://www.stlrcga.org/x4516.xml?ss=print>.

460. *Id.*

461. *Id.*

462. Tim Logan, *Ballpark Village Plan Advances*, STLTODAY.COM (Jan. 19, 2011), http://www.stltoday.com/business/columns/building-blocks/article_6dd80628-23ef-11e0-9e5d-0017a4a78c22.html.

phase, originally estimated to cost over \$300 million, was downsized to \$146.1 million by eliminating the residential aspect of Phase I.⁴⁶³ However, the fully realized development is still scheduled to include a residential component and is estimated to cost up to \$555 million.⁴⁶⁴ The revised Phase I plan is set to include a new fourteen-story office building, which is expected to be the premier office building in the region. To be completed in 2013, developers secured Stifel Financial Corporation, which had agreed to occupy 175,000 of the 225,000-square-foot of office space as its corporate headquarters.⁴⁶⁵ However, Phase I cannot begin without getting the city's public subsidies reapproved due to the drastic change in development plans.

The Cardinals completed the first hurdle in the approval process when the Missouri Downtown Economic Stimulus Authority approved their plan in January 2011. Following approval by the St. Louis Board of Aldermen, the proposal was also approved by the Board of Estimate and Apportionment, which includes the mayor.⁴⁶⁶ The final approval will be in the hands of the quasi-governmental Missouri Development Finance Board.⁴⁶⁷ Cardinals President Bill DeWitt III expects approval to be completed in 2011 and construction to last for twenty months, which means that Ballpark Village is tentatively scheduled to be open for business by 2013.⁴⁶⁸

C. Glorypark

Similar to Ballpark Village, development of Glorypark, which is located between Rangers Ballpark and the Dallas Cowboys newly-constructed \$1.1 billion stadium, has been postponed as a result of the financial conditions caused by the recession. However, unlike construction of Ballpark Village, which was partially integrated with the construction of the New Busch Stadium, the Glorypark sports.comm has struggled to escape the planning stages of development. The project was led by former Rangers owner Tom Hicks of Hicks Holdings, LLC and the Steiner and Associates development firm. Plans for the development were revealed in 2004, and the first phase of

463. *Id.*

464. *Id.*

465. Tim Logan, *Ballpark Village to Include Stifel HQ*, ST. LOUIS POST, Jan. 15, 2011, at A1. In August of 2011, Stifel Financial Corp. announced that it plans to buy its downtown building instead of moving to Ballpark Village. REVENUES FROM SPORTS VENUES NEWSLETTER, Aug. 11, 2011, at 11.

466. *Aldermen Approve Ballpark Village*, STLTODAY.COM (Feb. 14, 2007), http://www.stltoday.com/suburban-journals/article_e0aef89f-92ff-5a51-9d3e-03c28d864f81.html.

467. *Id.*

468. *Id.*

the proposed \$600 million sports.comm was set to include 1.2 million square feet of retail, residential, and commercial space.⁴⁶⁹ However, after four years, the project has only created a few road improvements and a single row of townhouses.⁴⁷⁰

By May 2008, attempts to finance and develop Glorypark were abandoned for a variety of reasons. The project never got off the ground largely because the development group lost a primary investor within a few months after the project was formally announced in 2006.⁴⁷¹ The setback caused a major postponement in the project as the developers were unable to find a suitable replacement investor. The delay caused further financing problems because of lenders' refusal to offer flexible financing. Hicks blamed the delay on the banks, saying "the nation's economic markets today have made it impossible to come to terms with lenders."⁴⁷² On May 15, 2008, the developers acknowledged that they did not exercise their option to extend a letter of commitment to underwrite bonds for the creation of roads and parking garages.⁴⁷³ Therefore, the development process was halted due to a lack of available financing.

Resurrection of the Glorypark project was further complicated when Tom Hicks' HSG Sports Group, which owned the Rangers, filed for Chapter 11 bankruptcy protection.⁴⁷⁴ The bankruptcy was a result of multiple defaults to creditors that occurred in March of 2009. Despite the pursuit of creditors, the move was ultimately an attempt to force a sale of the club to an ownership group led by Chuck Greenberg and Nolan Ryan, Rangers Baseball Express. The team's initial plan of reorganization included the sale of 154 acres of the proposed Glorypark along with the sale of Rangers Ballpark.⁴⁷⁵ Creditors

469. Jennifer Popovec, *Americans Love Sports*, RETAIL TRAFFIC (Nov. 1, 2007), http://retailtrafficmag.com/development/newdevelopment/retail_football_baseball_stadiums/.

470. Jeff Mosier, *So Far, Development Isn't Cropping Up Near Cowboys' New Stadium*, DALLAS MORNING NEWS, Mar. 2, 2009, at 2A.

471. Sandra Baker, *Texas Rangers Owner Tom Hicks Sues Former Partner in Failed Glorypark Development*, DALLASNEWS.COM (Apr. 2, 2010), <http://www.dallasnews.com/news/community-news/arlington/headlines/20100402-Texas-Rangers-owner-Tom-Hicks-sues-5069.ece>.

472. Jim Boardman, *Hicks Delays Glorypark Due to "Extreme Conditions"*, ANFIELD ROAD (May 15, 2008), <http://archive.anfieldroad.com/news-archive/200805153000/hicks-delays-glorypark-due-to-extreme-conditions.html/>.

473. *Id.*

474. Matthew Futterman, *Texas Rangers Make Bankruptcy Play*, WSJ.COM (May 25, 2010), <http://online.wsj.com/article/SB10001424052748704792104575264950799613356.html>.

475. Maury Brown, *Greenberg-Ryan Group Terminates Land Deal Just Before Texas Rangers Auction*, BIZ OF BASEBALL (Aug. 4, 2010), http://www.bizofbaseball.com/index.php?option=com_content&view=article&id=4600:greenberg-ryan-group-terminates-land-deal-just-before-texas-rangers-auction&catid=70:mlb-club-sales&Itemid=157.

objected to Hicks' reorganization plan, and the court forced the sale of the team through public auction. Hicks attempted to create a side deal that would have sold the land to the Greenberg-Ryan group prior to the auction of the Texas Rangers, but the deal was cancelled in order to create a "level playing field" at the auction.⁴⁷⁶ Ultimately, Rangers Baseball Express submitted the winning bid for the Rangers of \$593 million.⁴⁷⁷

However, before the sale was completed, Hicks' former partner, Steiner + Associates, sued, claiming a twenty-five percent ownership interest in Glorypark and control of forty-five acres of land adjacent to Rangers Ballpark.⁴⁷⁸ In response, Hicks countersued, alleging fraud and breach of fiduciary duty.⁴⁷⁹ Hicks claimed that he "trusted and relied" on Steiner's promise that he would ensure the project's success by preleasing most of the retail spaces, which Steiner was unable to secure.⁴⁸⁰ Ultimately, the lawsuit was unsuccessful, and the MLB approved the sale of the Texas Rangers to Rangers Baseball Express on August 12, 2010.⁴⁸¹

Despite a new ownership group and two recent trips to the World Series, Nolan Ryan's group has no current plans to resume development of Glorypark. The main obstacle has been an ongoing battle between Rangers Baseball Express, Hicks Holdings, and Steiner + Associates over who must pay the remaining Glorypark creditors. Specifically, RTKL, the architecture firm initially hired to design the site, and Vratsinas Construction Company have yet to be paid. The parties filed an adversary proceeding in Hicks Holdings' Chapter 11 case, which has yet to be adjudicated, and the development of the sports.comm remains on hold.

D. Victory Park

Surprisingly, Glorypark was not Tom Hicks' only failed attempt at creating an economically viable sports.comm. Hicks' first attempt came as owner of the Dallas Stars NHL franchise. In 1998, Dallas voters approved public financing for more than half the cost of the \$140 million American

476. *Id.*

477. Barry Shlachter, *Rangers Exit Bankruptcy after Greenberg-Ryan Bid is Approved*, DALLASNEWS.COM (Aug. 6, 2010), <http://www.dallasnews.com/sports/texas-rangers/headlines/20100805-Rangers-exit-bankruptcy-after-Greenberg-Ryan-5814.ece>.

478. *Former Development Partner Sues Tom Hicks Over Land Near Rangers Ballpark*, DALLASNEWS.COM (Jan. 28, 2010), <http://www.dallasnews.com/business/headlines/20100128-Former-development-partner-sues-Tom-Hicks-467.ece>.

479. Baker, *supra* note 471.

480. *Id.*

481. Richard Durrett, *MLB Owners Approve Rangers Sale*, ESPN (Aug. 12, 2010), <http://sports.espn.go.com/dallas/mlb/news/story?id=5457793>.

Airlines Center, the current home of the Dallas Mavericks and Dallas Stars.⁴⁸² On top of the arena financing, the Dallas City Council offered Hicks and Ross Perot, Jr., former owner of the Dallas Mavericks, an extra \$25 million to develop the abandoned property surrounding the arena.⁴⁸³ The area was historically blighted, but rather than simply improving the land by increasing tourism and retail foot traffic in the area, Hicks and Perot attempted to create an ultra-sophisticated sports.com that was to become the next Times Square.⁴⁸⁴

The developers attempt to create a Times Square atmosphere was ultimately the downfall of the sports.com because it was designed to be too upscale for the city's local market. The epitome of the developers overindulgence was the creation of two enormous super screens at AT&T Plaza, the entertainment anchor of the development. The screens were billed as the largest outdoor digital mediums in the world, but the problem for the developers was that no one was there to view them.⁴⁸⁵ Their plan anticipated massive crowds, but its retail, residential, and food and beverage options only catered to high-end consumers. Between 2006 and 2008, the area added more than 400 condominiums, 380 apartments, 250 hotel rooms, 500,000 square feet of office space, and 200,000 square feet of retail.⁴⁸⁶ Residential prices were listed at \$500 per square foot, which was more than double the going rate in the surrounding area.⁴⁸⁷ Residential developments included the W Dallas Victory Hotel and Residences, a thirty-three-story hotel that was completed in 2006; the Terrace, a seven-story residential building; Vista Apartments, a seven-story ultra-modern apartment complex; and the House by Starck and Yoo, a luxury condominium complex. Retail options included high-end dining, like N9ne Steakhouse, Nove Italiano, Kenichi, Cirque, and Craft by celebrity chef Tom Colicchio; upscale retail, like Henry Beguelin, Haven, and Lifestyle Fashion Terminal, and upscale bars, like the Ghost Bar.

Overall, the development suffered because it did not cater to its key demographic; fans attending games at the American Airlines Center. The

482. Matt Pulle, *Dallas' Victory Park Struggles to Deliver a Win*, DALLAS OBSERVER, Jan. 29, 2009.

483. *Id.*

484. *Id.*

485. Melissa Repko, *Dallas' Victory Park Struggles to Find a Game-changer*, DALLASNEWS.COM (Nov. 12, 2010), <http://www.dallasnews.com/business/commercial-real-estate/20101111-Dallas-Victory-Park-struggles-to-7545.ece>.

486. Michael Schnurman, *Why Victory Park Was a Bust*, D MAGAZINE (Jan. 20, 2010), http://www.dmagazine.com/Home/D_CEO/2010/January_February/Why_Victory_Park_Was_a_Bust.aspx

487. *Id.*

sports.comm generated most of its consumer traffic during the lunchtime hours, and other local entertainment options were more popular among fans of the Mavericks and Stars.⁴⁸⁸ Beyond the abundance of unreasonably priced retail and restaurant options, Victory Park also suffered because it was not well-suited for foot traffic. The separation rather than integration of parking within the sports.comm allowed fans to avoid the retail elements on their way to the sports anchor.⁴⁸⁹ Similarly, fans exiting the arena were unable to see the massive video screens in AT&T Plaza; therefore, only experienced fans knew where to find the sports.comm's key entertainment anchor because views of the plaza were obstructed by the W Hotel.⁴⁹⁰ The sports.comm also suffered because the initial development phase only included thirty shops and restaurants upon its opening, which was insufficient to compete in the local entertainment market. As a result, fans traveled to the nearby West Village that included seventy different shops and restaurants that were also reasonably priced. While Victory Park has faltered, West Village plans to construct an additional thirty retail and restaurant options.⁴⁹¹

The failure of Victory Park highlights the key obstacles in the creation of a viable sports.comm. First, while the development successfully encouraged residential life, it failed to promote foot traffic through the sports.comm's retail and dining elements. Second, Hicks and Perot used their \$25 million in public financing to create a district that did not cater to the local taxpayer, which caused a disconnect between the entertainment district and the local community. Lastly, the sports.comm did not cater to the consumers attracted to its sports anchor; therefore, it only generated daytime traffic, which was insufficient to sustain its retail and dining options. Thus, massive private investments allowed Victory Park to move past the planning stages of development, but, like Glorypark, the Victory Park sports.comm did not have a strong, stable plan for economic revitalization, gradually lost its retail tenants, and, ultimately, failed.

Despite the loss of retailers, Victory Park can be saved based on the strength of its sports, residential, and entertainment anchors. Recently, German real estate investors US Treuhand has taken control of most of the development from initial developer Hillwood Development, Perot's development firm, and plans to create a viable sport.comm at the site.⁴⁹² The

488. Repko, *supra* note 485.

489. Amy Prince, *Victory Park, Dallas*, TEXASMONTHLY (Dec. 2007), <http://www.texasmonthly.com/2007-12-01/streetsmarts.php>.

490. Pulle, *supra* note 482.

491. *Id.*

492. Steve Brown, *Cousins Properties will Manage Dallas' Victory Park*, DALLASNEWS.COM

firm has hired a new developer, Cousins Properties, which has already announced plans to move the shopping center to a more desirable location within the district.⁴⁹³ Thus, despite its previous failures, the future of Victory Park remains bright.

E. New Meadowlands

The most illustrative example of a failed sports.comm is the development of the Xanadu mixed-use development located near the New Meadowlands stadium (Meadowlands) in East Rutherford, New Jersey. The Meadowlands complex is just miles away from New York City; therefore, it enjoys the largest market of any sports.comm from which to generate revenues and attract tenants for large-scale retail, commercial, and recreational developments. Despite the built-in market at the Meadowlands site, private developers have failed on two separate attempts at creating a sports.comm, and a third attempt is currently in the planning stages, which will likely include public financial support in the form of a TIF district.

Virginia-based developer the Mills Corporation (Mills) began formulating plans for the creation of a “mega-mall” outside the Meadowlands complex as early as 1994 when they purchased a 750-acre plot of land called the “Empire Tract” just outside of the Meadowlands property that was owned by the New Jersey Sports and Exposition Authority (NJSEA).⁴⁹⁴ Construction problems due to the swamp land within the Empire Tract caused the company to abandon their initial project, but Mills shifted its focus to purchasing additional NJSEA-owned land.⁴⁹⁵ In 2002, the NJSEA requested proposals from developers for the creation of a retail and entertainment complex adjacent to the Meadowlands.⁴⁹⁶ Six bids were submitted: two included the creation of a NASCAR track, one was submitted by the owner of the Mall of America, and another proposed a convention center.⁴⁹⁷ Based on its history with the project, Mills’s bid to develop the land into a retail and recreational center was successful.⁴⁹⁸ Under the terms of the original agreement, Mills agreed to pay the first fifteen years of rent up front in the amount of \$160

(Dec. 3, 2010), http://www.dallasnews.com/sharedcontent/dws/bus/stories/DN-victory_03bus.ART.State.Edition1.3edebbf.html.

493. *Id.*

494. Seamus McGraw, *Whither Xanadu?*, NJMONTHLY.COM (Dec. 13, 2010), <http://njmonthly.com/articles/lifestyle/whither-xanadu.html>.

495. *Id.*

496. *Id.*

497. *Id.*

498. *Id.*

million.⁴⁹⁹ The NJSEA's overarching goal for the project was to avoid the use of taxpayer funding, but the initial deal with Mills included \$185 million in public financing for a new railway to connect the project to Manhattan's Penn Station and for the repurchase of the Empire Tract for development of the railway at the cost of \$26 million of taxpayer money.⁵⁰⁰

Mills's plans of creating a 4.8 million-square-foot mall began in 2003 with an initial price of \$1.3 billion, which was scheduled to be opened two years after breaking ground.⁵⁰¹ The development was immediately stalled in 2003 by a lawsuit filed against the NJSEA by a pair of developers, Hartz Mountain and Westfield America Trust, who had submitted bids for the project.⁵⁰² The lawsuit was unsuccessful, but was followed by another suit in 2005 by the New York Giants who claimed that the Xandau retail project was obstructing views of the stadium in violation of their lease.⁵⁰³ That suit was also unsuccessful, but the delays caused by litigation caused Mills to lay-off fifteen percent of its work force by 2006.⁵⁰⁴ Shortly thereafter, Mills shareholders filed suit against the company and the Securities and Exchange Commission (SEC) had begun investigating the company for questionable accounting practices.⁵⁰⁵ Meanwhile, another developer involved in the development, the Simon Property Group, willfully abandoned the development after major lender Lehman Brothers collapsed due to the financial crisis, which caused other lenders to pull out as well.⁵⁰⁶

After prolonged litigation and investigation doomed Mills's initial attempt to develop a Meadowlands sports.comm, the NJSEA agreed to turn the project over to Colony Capital (Colony), a California-based real estate investment firm.⁵⁰⁷ At the time of Colony's investment, a total of \$2 billion had already been invested and another \$1.5 billion was necessary to complete the project that was initially proposed for \$1.3 billion.⁵⁰⁸ Colony agreed to assume \$485

499. *Id.*

500. *Id.*

501. Marc Scribner, *New Jersey's Not-So-Palatial Xanadu*, OPENMARKET.ORG (July 22, 2010), <http://www.openmarket.org/2010/07/22/new-jerseys-not-so-palatial-xanadu/>.

502. *Id.*

503. *Id.*

504. Laura Mansnerus, *How a Mall in the Meadowlands is Bleeding a Company*, N.Y. TIMES (Apr. 16, 2006), at 14NJ, 1.

505. Scribner, *supra* note 501.

506. Terry Pristin, *At \$2.3 Billion, This Mall Could be Too Big to Fail*, N.Y. TIMES, May 20, 2009, at 4.

507. Scribner, *supra* note 501.

508. Laura Mansnerus, *Reprieve for Troubled Xanadu Entertainment Complex in Meadowlands*, N.Y. TIMES, Aug. 23, 2006, at 5.

million of Mills's debt in return for 4.5 million shares in the company, and also guaranteed up to \$90 million in additional construction costs.⁵⁰⁹ Credit Suisse bank provided the remaining \$1 billion necessary for the project.⁵¹⁰ Mills was eventually sold to the Simon Property Group and hedge fund Farallon Capital Management in February 2007.⁵¹¹

At the time of Colony's investment, the project had 6 anchor tenants committed to 500,000 square feet of retail space.⁵¹² The initial tenants included Cabela's; AEG Live, a live performance and concert hall; Muvico 18, an upscale movie theater; Forever 21; and Children's Place, a children's apparel retailer.⁵¹³ The main entertainment anchors included an indoor ski slope; the world's tallest Ferris wheel; Wannado City, a 60,000 square foot playroom for children that allows them to learn about different career choices; and Sky Venture, indoor sky diving.⁵¹⁴ However, many of the initial design elements were eliminated including, among others, a roller coaster, a miniature NASCAR-style track, a new home of the Meadowlands YMCA, and a minor league baseball stadium.⁵¹⁵

Unfortunately, like the first development attempt, Colony's efforts were stalled due to litigation. First, the Bergen County Cliff Hawks, the minor league baseball team initially announced as a tenant for the proposed minor league stadium, sued for breach of contract, but the case was dismissed.⁵¹⁶ More critically, the case against one of the project's initial creditors that had left the project, Xanadu Mezz Holdings, an affiliate of Lehman Brothers, was dismissed on a technicality.⁵¹⁷ Xanadu Mezz had pledged \$208 million for the project, 20% of the initial costs, but was allowed to walk away from the

509. *Mills Corp. Hands Over Xanadu Development to Colony Capital*, SPORTS BUS. DAILY (Aug. 23, 2006), <http://www.sportsbusinessdaily.com/Daily/Issues/2006/08/Issue-228/Facilities-Venues/Mills-Corp-Hands-Over-Xanadu-Development-To-Colony-Capital.aspx>.

510. *Colony Capital Completes Recapitalization of Meadowlands Xanadu Project*, COLONY CAPITAL, LLC (Nov. 22, 2006), http://www.colonyinc.com/articles/news_xanadu.htm [hereinafter *Colony Capital Completes Recapitalization*].

511. John Spence, *Simon, Farallon Team Up to Buy Mall REIT*, MARKETWATCH (Feb. 16, 2007), <http://www.marketwatch.com/story/mills-agrees-to-be-acquired-by-simon-property-hedge-fund>.

512. *Colony Capital Completes Recapitalization*, *supra* note 508.

513. *Id.*

514. *Id.*

515. Mansnerus, *supra* note 508.

516. Maura McDermott, *NJ Sports Authority Still Expects Minor League Baseball at Xanadu*, NJ.COM (Jan. 30, 2008), http://www.nj.com/news/index.ssf/2008/01/the_sports_authority_still_exp.html.

517. Ted Sherman, *Xanadu Developers Lose Legal Bid for Financing of Stalled \$2B Retail Complex*, NJ.COM (Sept. 21, 2009), http://www.nj.com/news/index.ssf/2009/09/_the_developers_of_xanadu.html.

project without penalty.⁵¹⁸ By 2009, Colony's attempt at developing the Meadowlands sports.comm failed when it was unable to find a replacement creditor for such a significant investment, largely due to the credit crunch following the financial crisis in 2008.⁵¹⁹

After the second failed attempt to develop the site, the State of New Jersey and their outspoken Governor Chris Christie have become greatly involved in the project. Christie identified the development problems succinctly.

There is no leasing plan making material on-site progress. The physical activities of construction are at a standstill, if not abandonment. The construction loan is out of balance. There are no monies readily available to finish construction of public areas or tenant improvements. Most, if not all, of announced major tenants have an 'escape clause' solely dependent on leasing—or lack thereof.⁵²⁰

Beyond the \$2.3 billion already invested in construction of the project by 2009, the state estimated that the project needed a minimum of \$875 million for completion.⁵²¹ To complete the project, Governor Christie began searching for developers to complete the project by offering more state support. In return, Christie made two demands. First, that the new developer change the project's current checkerboard aesthetic that Christie calls, "the ugliest . . . building in New Jersey and maybe America," and, second, that the state would receive a piece of the project's equity in return for any public investment.⁵²² However, there has been outspoken opposition to adding public funding to a project that has failed multiple times, especially considering Christie's movement towards austerity in all other areas of the state government. The most influential opposition has come from George Zoffinger, the former President of the NJSEA that accepted Mills' initial bid, who argued that no public money should be used for the development because the initial goal of the project was to avoid any taxpayer involvement.⁵²³

518. *Id.*

519. *Id.*

520. Peter Applebome, *Possible Second Life for Stalled Xanadu Project? Consider Trip to 'Jersey Shore,'* N.Y. TIMES, Jan. 25, 2010, at 12.

521. Charles V. Bagli, *Christie Urges Rescue for Stalled Meadowlands Complex*, N.Y. TIMES, July 21, 2010, at 24.

522. Megan DeMarco, *Christie Says if N.J. Gives More Funding to Meadowlands Xanadu, Changing Exterior is a Priority*, NJ.COM (Mar. 25, 2011), http://www.nj.com/news/index.ssf/2011/03/christie_says_if_nj_gives_more.html.

523. Bagli, *supra* note 521.

In May of 2011, Triple Five, owner of the Edmonton Mall and the Mall of America, the country's largest entertainment and retail complex and one of the initial bidders on the project, was granted the right to develop the sports.comm project, which they renamed American Dream Meadowlands.⁵²⁴ Its initial bid was denied, in part, because its plans included housing on the site.⁵²⁵ The new plan calls for the creation of an indoor water park, a second parking garage, a skating rink, and other elements that have proven successful at Triple Five's other developments.⁵²⁶ The company's goal is to complete the project well before the Meadowlands hosts the 2014 Super Bowl.⁵²⁷ Governor Christie has also promised, and the State Senate has approved, a plan to include the project in the state Economic Redevelopment and Growth Grant program, which will provide Triple Five with \$200 million potential tax breaks for the project.⁵²⁸ Therefore, the Meadowlands sports.comm is likely to proceed.

Beyond the renovation and completion of Xanadu, the Meadowlands Regional Chamber of Commerce has submitted a proposal to redevelop the remaining land surrounding the Meadowlands. The proposal would add 2.5 million square feet of usable land at the site and would create 15,000 temporary construction jobs and 25,000 permanent jobs.⁵²⁹ The plan calls for the creation of a 150,000 square foot casino, a 400,000 square foot convention center, a 125,000 square foot conference center, six hotels with a total of 3200 rooms, two 3000-space parking garages, and a world-class diving and aquatics center.⁵³⁰ However, this plan would require a change to New Jersey's current

524. Terry Pristin, *Bringing the Mall of America Magic to New Jersey*, N.Y. TIMES, May 11, 2011, at 6. Triple Five is looking for \$800 million in public assistance and is relying on tax-free bonds tied at future revenues. *Tax Breaks Approved for Xanadu Developer*, REVENUES FROM SPORTS VENUES NEWSLETTER, June 30, 2011 [hereinafter *Tax Breaks Approved*].

525. Terrence Dopp & Prashant Gopal, *New Jersey's Xanadu to be Taken Over by Mall of America Owner Triple Five*, BLOOMBERG (Dec. 23, 2010), <http://www.bloomberg.com/news/2010-12-23/new-jersey-s-meadowlands-complex-will-be-revamped-by-mall-of-america-owner.html>.

526. Andrew Calvo, *The Meadowland's Xanadu Getting New Name and Developer*, 4HOTELIERS (May 3, 2011), http://www.4hoteliers.com/4hots_nshw.php?mwi=8567.

527. Dopp & Gopal, *supra* note 525.

528. *Tax Breaks Approved*, *supra* note 524.

529. E. Assata Wright, *New Vision for Meadowlands Sports Complex*, HUDSON REPORTER (Mar. 6, 2011), http://hudsonreporter.com/view/full_stories_home/12163517/article-New-vision-for-Meadowlands-Sports-Complex-Plan-includes-convention-center-hotels-casinos-athletic-center?instance=secaucus_story_left_column.

530. Michael Lamendola, *Concept Plan to Transform Meadowlands Includes Casinos, Convention Center, and Aquatics Center*, NORTHJERSEY.COM (Mar. 10, 2011), http://www.northjersey.com/news/117719013_Meadows_vision_includes_casinos_aquatics_and_convention_center.html.

gaming laws, which only permit gambling in Atlantic City.⁵³¹ To counter, the state has minimized the likely opposition to a change to the gambling rules by becoming a twenty percent equity partner in Revel Casino in Atlantic City at the price of \$261 million and by instituting legislation that eliminated a \$30 million purse subsidy for the state's horse racetracks, including the Meadowlands Racetrack, which was paid by Atlantic City casinos.⁵³² Public financing for development of the land surrounding the Meadowlands is expected to be announced in the near future, and is likely to mirror the state's agreement with Revel Casino, but is dependent on Triple Five's successful completion of the Meadowlands sports.comm.⁵³³

After two failed development attempts, the Meadowlands sports.comm is a perfect example of a failed sports.comm, but also exemplifies the important economic impact a sports.comm can have on a region. Rather than downsize the project, the Meadowlands sports.comm has continued to increase in scope due to the potential profits that could ultimately be realized by a successful development. Therefore, the expansion of the project to the land directly adjacent to the Meadowlands utilizing a public investment and its ultimate completion will likely transform the Meadowlands sports.comm from a failed endeavor into one of the most prosperous retail developments in the country.

F. Atlantic Yards

Similar to the problems faced by other failed or delayed sports.comms, the New Jersey Nets' initial attempt at creating a sports.comm in Brooklyn, New York, was plagued by overindulgence. Proposed in 2003, the initial plan for Atlantic Yards, the sports.comm surrounding the proposed Barclays Center, was to create a \$2.5 billion entertainment district to be designed by celebrity architect Frank Gehry. By 2005, the completed proposal inflated the final price to \$4 billion. Since the completed plan was submitted in 2005, the developer, Forest City Ratner, has been in a constant struggle to obtain the necessary financing and to acquire land in order to complete the Atlantic Yards sports.comm. However, after many delays, Barclays Center seems to be on track for completion, despite being proposed during the worst economic climate since the Great Depression.

The Barclays Center is scheduled to be the focal point of Atlantic Yards, but lawsuits and financing problems have delayed construction for years. The location of the development is the Prospect Heights neighborhood in

531. Wright, *supra* note 529.

532. *Id.*

533. DeMarco, *supra* note 522.

Brooklyn, New York, which was considered a blighted area. Ratner acquired twenty-two acres in Prospect Heights as a result of an agreement with former Governor George Pataki and Mayor Michael Bloomberg.⁵³⁴ Ratner was awarded the land without a bid, and also acquired the eight-acre rail yard for \$100 million through a much-disputed bid process.⁵³⁵ The designation of Prospect Heights as a “blighted area” gave the city more flexibility to acquire property through eminent domain; however, the first lawsuits against Ratner and Atlantic Yards claimed that the city had abused its power by allowing Ratner to choose the eminent domain condemnation zone.⁵³⁶ After three years, the case was finally decided by the New York Court of Appeals, the state’s highest court, which ruled six to one that the city’s use of eminent domain was appropriate.⁵³⁷

By 2006, the Atlantic Yards proposal included three buildings, the Barclays Center, an office tower, and a residential tower with fifty percent of the occupancy dedicated to low- and middle-income families. By 2009, Ratner attempted to save money on construction of the Barclays Center by reconfiguring the glass and steel arena designed by Gehry.⁵³⁸ Gehry criticized the downsizing and was removed as architect on the project.⁵³⁹ Ratner also attempted to save money by delaying Phase II of the development, the residential portion; however, local citizens criticized this move because it eliminated much of the “public benefits” that were promised as a result of the eminent domain taking.⁵⁴⁰ Specifically, local residents were upset that a 2250-unit housing structure for middle and moderate income families has been delayed, along with 8 acres of open space.⁵⁴¹ In response, Ratner’s new architect, Ellerbe Becket and SHoP Architects, proposed a downsized arena in September of 2009 and promised to begin construction of the residential phase six months after beginning the arena.⁵⁴²

534. Daniel Goldstein, *What is Atlantic Yards? A Complete Failure of Democracy*, HUFFINGTON POST (Mar. 12, 2010), http://www.huffingtonpost.com/daniel-goldstein/what-is-atlantic-yards-a_b_497229.html.

535. *Id.*

536. Charles V. Bagli, *Ruling Lets Atlantic Yards Seize Land*, N.Y. TIMES (Nov. 24, 2009), http://www.nytimes.com/2009/11/25/nyregion/25yards.html?_r=1.

537. *Id.*

538. Rich Calder, *Game Over for Nets’ Atlantic Yards*, N.Y. POST, Mar. 25, 2009, at 2.

539. *Id.*; Charles V. Bagli, *Developer Drops Gehry’s Design for Brooklyn Arena*, N.Y. TIMES (June 4, 2009), <http://www.nytimes.com/2009/06/05/nyregion/05gehry.html>.

540. *Ratner’s Atlantic Yards Project Enters a Crucial Period*, DEALBOOK (June 25, 2009), <http://dealbook.nytimes.com/2009/06/25/ratners-atlantic-yards-project-enters-a-crucial-period/>.

541. *Id.*

542. Bagli, *supra* note 539.

Following the unsuccessful eminent domain suit, Ratner's biggest obstacle was to obtain financing for the project without further assistance from the government. The city offered to extend \$700 million in tax-exempt bonds, but refused to pledge any of the taxing power of the state to back the bond offering.⁵⁴³ Therefore, in order to take advantage of this form of tax-exempt financing, Ratner proposed to pay the \$30 million annual debt service using future revenue streams like sponsorships, suite licenses, concessions, increased ticket prices, and ticket fees.⁵⁴⁴ However, this financing was unnecessary when Ratner sold an eighty percent interest in the New Jersey Nets and forty-five percent interest in the Barclays Center to Russian billionaire Mikhail Prokhorov, while retaining his majority ownership interest in Atlantic Yards.⁵⁴⁵ It has been reported that Prokhorov paid Ratner \$223 million for 80% of the Nets and 45% of the arena and agreed to pay \$60 million in team losses and assume 80% of the Nets' \$200 million debt.⁵⁴⁶ It was assumed that Prokhorov would save the project by financing the entire \$700 million bond offering, but instead he provided a \$200 million bridge loan, which gave Ratner time to find the remaining financing.⁵⁴⁷

To further fund the development, Ratner has been forced to sell a 49% stake in his 15 shopping centers scattered throughout the New York City area, which were valued at \$172 million.⁵⁴⁸ Moreover, Ratner has utilized the EB-5 foreign investment program to obtain additional financing for Atlantic Yards.⁵⁴⁹ Ratner claims the \$249 million in EB-5 funds that he has obtained will create 7696 new jobs.⁵⁵⁰ However, Ratner also acknowledged that the

543. Eliot Brown, *When Bruce Met Mikhail: The Backstory of the Nets-Atlantic Yards Deal*, N.Y. OBSERVER (Oct. 1, 2009), <http://www.observer.com/2009/real-estate/hed?page=all#>.

544. John Brennan, *Nets Naming Rights Deal is Half of What Was Publicized*, NORTHJERSEY.COM (Dec. 3, 2009), http://www.northjersey.com/sports/pro_sports/120309_Nets_naming_rights_deal_is_half_of_what_was_publicized.html.

545. Steve Politi, *Fans Should Walk Away from 'Crazy' NJ Nets and Possible New Owner Now*, NJ.COM (Sept. 23, 2009), http://www.nj.com/nets/index.ssf/2009/09/politi_fans_should_walk_away_f.html.

546. Rich Calder, *NBA Deal is 'Net' Loss for B'klyn*, N.Y. POST, Apr. 4, 2011, at 5.

547. Politi, *supra* note 545.

548. Eliot Brown, *Ratner Sells Shopping-Center Stake*, WALL ST. J. (Mar. 30, 2011), http://online.wsj.com/article/SB10001424052748704471904576231293254223456.html?mod=google_news_wsj.

549. Charles V. Bagli, *With Federal Case and Modular Building Plan, New Attention for Atlantic Yards Project*, N.Y. TIMES (Mar. 17, 2011), <http://www.nytimes.com/2011/03/18/nyregion/18yards.html>.

550. Norman Oder, *Believable? Feds Told \$249M in Immigrant Investor (EB-5) Funds Would Create 3705 Construction Jobs, 350 in Retail, 1786 in Art/Entertainment*, ATL. YARDS REPORT (Mar. 29, 2011), <http://atlanticyardsreport.blogspot.com/2011/03/believable-feds-told-249m-in-immigrant.html>.

funds would be used for the development of a new rail yard.⁵⁵¹ Therefore, since the jobs created are not necessarily tied to the proposed EB-5 financing, the financing method will likely be subject to future legal challenges.

Though the Atlantic Yards financing plan has not yet been finalized, developers broke ground on the project in March 2010, just in time to utilize the city's \$700 million bond offering.⁵⁵² Construction of the Barclays Center itself has finally begun, and as of April 2011, thirty percent of the facility's steel is in place. The arena is now scheduled to open sometime during the 2012--2013 season. Despite the difficulty in developing this sports.com, Ratner is already declaring the facility a success by promising that the Barclays Center will host more than two hundred events in its first year of operation.⁵⁵³ However, the sports.com surrounding the arena continues to be stalled, and according to a recent filing by Ratner with the SEC, the project might be scrapped altogether.⁵⁵⁴ Ratner warned that rising construction costs, higher financing costs, loss of arena sponsors, and an inability to meet government-mandated deadlines could cause the project to fail completely. The SEC filings further indicated that Ratner and the company could potentially lose up to \$525 million on the project. However, currently the plan is proceeding and potential tenants have not yet been discouraged as the sports.com has the newfound financial security of being implicitly backed by one of the richest people in the world, Prokhorov.

VI. FUTURE SPORTS.COM

Not surprisingly, the sports.com development plan has practically become a prerequisite for any professional franchise owner seeking to build a new facility today. By adopting this strategy, teams will be able to utilize the increased revenues generated from an entertainment district to finance the future renovation or replacement of an anchor sports venue. Future sports.coms that have been discussed include proposals for the San Francisco 49ers, Minnesota Vikings, Minnesota Twins, San Diego Chargers, and the City of Los Angeles.

551. Bagli, *supra* note 549.

552. *Officials to Break Ground on Atlantic Yards Project*, NY1.COM (Mar. 10, 2010), http://www.ny1.com/content/top_stories/115010/officials-to-break-ground-on-atlantic-yards-project.

553. John Brennan, *Nets' New Home Moving Forward*, NORTHJERSEY.COM (Mar. 28, 2011), http://www.northjersey.com/news/Nets_new_home_moving_forward.html.

554. Calder, *supra* note 546.

A. *San Francisco 49ers*

The San Francisco 49ers recently unveiled their plans to create a sports.comm surrounding their proposed new stadium in Santa Clara, California. Due to the state's ongoing budget crisis, any new development in California that requires public support would require local government financing, and, thus far, Santa Clara has proven to be a receptive community. Moreover, the NFL has put the onus on local governments and franchise owners to finance their projects because the League has stopped funding its G3 Program, which had traditionally offered low-cost construction loans to NFL franchise owners.⁵⁵⁵

The preliminary proposal for the 49ers Santa Clara sports.comm would basically split the cost of construction between the team and the city. Of the \$937 million proposed construction costs, the team would provide \$493 million and the city would contribute \$444 million.⁵⁵⁶ The city's investment would come in the form of \$114 million in a direct public subsidy and \$330 million in naming rights sold by the newly-created Stadium Authority.⁵⁵⁷ The public subsidy would be broken down into \$42 million from Redevelopment District bonding, \$20 million from increased energy utilities, \$35 million from hotel taxes, and \$17 million from revenues generated from a proposed parking garage.⁵⁵⁸ The Stadium Authority investment would primarily include money from the sale of personal seat licenses and stadium naming rights.⁵⁵⁹ However, the project cost has already risen \$50 million prior to construction; therefore, all financing plans are preliminary.⁵⁶⁰

Beyond the stadium, 49ers' legend Joe Montana and former owner Eddie DeBartolo have proposed further private investment on seven acres north of the proposed stadium, which was recently approved by the Santa Clara City

555. Nancy Gay, *Commissioner Not in Oakland to Make Changes*, SFGATE (Dec. 15, 2008), http://articles.sfgate.com/2008-12-15/sports/17130277_1_roger-goodell-g3-east-bay. The new ten-year labor pact between NFL management and players provides for a credit for stadium projects of up to 1.5% of all league revenues in a year. With the NFL surpassing \$9 billion in annual revenues, the annual 1.5% credit would make about \$150 million per year in stadium financing available annually through the 2020 season. *49ers Hopeful of Major NFL Investment*, REVENUES FROM SPORTS VENUES NEWSLETTER, July 28, 2011, at 10.

556. City of Santa Clara, *Stadium Project Term Sheet*, CITY OF SANTA CLARA, 34–35 (June 2, 2009), <http://santaclaraca.gov/ftp/csc/pdf/49ers-Term-Sheet-Presentation.pdf>.

557. *Id.*

558. *Id.*

559. *Id.*

560. *Price Rises on 49ers Stadium*, REVENUES FROM SPORTS VENUES NEWSLETTER, June 9, 2011.

Council.⁵⁶¹ The area would include a luxury hotel and entertainment center, which would complement the stadium proposal.⁵⁶² Those plans are very preliminary and will likely be finalized after the 49ers agreement with Santa Clara is finalized in 2011.⁵⁶³ Recently, the 49ers eliminated a lawsuit, one of the remaining obstacles for the stadium project, by purchasing a Great America theme park adjacent to the new planned Santa Clara stadium.⁵⁶⁴ Construction on the new stadium is tentatively scheduled to begin in 2013 after the team obtains the requisite permits and approvals from the city.⁵⁶⁵

B. Minnesota Vikings

The Minnesota Vikings' lease in their current facility, the Metrodome, will expire after the 2011 season. The Vikings' owners have said that they will not renew their lease after that season.⁵⁶⁶ Thus, the issue of a new Vikings' stadium must be resolved this year. The Vikings have submitted a proposal to have a new \$1 billion, retractable roof stadium built for the Vikings in Arden Hills, Minnesota, at the site of a former munitions plant.⁵⁶⁷ The site is ten miles from downtown St. Paul and is one of the largest undeveloped areas left in Minnesota.⁵⁶⁸ On the site the Vikings plan to build a 1.6 million square foot stadium with 21,000 parking spaces, with an adjacent entertainment district, including a Vikings Hall of Fame.⁵⁶⁹

561. Philip Matier & Andrew Ross, *49ers Legends Plan Big Score Near Proposed Stadium*, SFGATE (Dec. 12, 2010), http://articles.sfgate.com/2010-12-12/bay-area/25187959_1_mayoral-poll-interim-mayor-city-voters; *Santa Clara OKs Joe Montana Hotel Project at Stadium Site*, CBS SAN FRANCISCO (July 13, 2011), <http://sanfrancisco.cbslocal.com/2011/07/13/santa-clara-oks-joe-montana-hotel-project-at-stadium-site/>.

562. *Santa Clara OKs Joe Montana Hotel Project at Stadium Site*, *supra* note 561.

563. City of Santa Clara, *San Francisco 49ers Proposal for a Football Stadium in the City of Santa Clara*, CITY OF SANTA CLARA, <http://santaclaraca.gov/index.aspx?page=1197> (last visited Oct. 20, 2011).

564. *49ers Owners Investing in Purchase of Great America Theme Park*, SPORTS BUS. DAILY (Sept. 20, 2011) <http://www.sportsbusinessdaily.com/Daily/Issues/2011/09/20/Facilities/49ers-Stadium.aspx>.

565. City of Santa Clara, *supra* note 563.

566. Don Davis, *State Sets Friday Vikings Stadium Bill Deadline*, W. CENT. TRIB. (Minn.), June 14, 2011, at STATE AND REGIONAL NEWS.

567. Mike Kaszuba, et al., *Vikings, Ramsey Co. Strike Deal*, STAR TRIB. (Minn.) (May 11, 2011), <http://www.startribune.com/sports/vikings/121580574.html>.

568. *Id.*

569. *Id.*; The owner of the Vikings, Zygi Wolfs, is a real estate developer. The 2,400 acre site offers a further mixed use development and "a daylong experience for Vikings fans, families and friends," said Wolfs. *Vikings, Ramsey County Pitch Arden Hills Stadium Plan*, CROOKSTON DAILY TIMES (Minn.) (May 11, 2011) http://www.crookstontimes.com/state_news/x1058159425/Vikings-Ramsey-County-pitch-Arden-Hills-stadium-plan.

Financing for this project has been a major obstacle. To finance the stadium, the Vikings and the county would contribute \$407 million and \$350 million, respectively.⁵⁷⁰ The state would then have to contribute the last \$300 million.⁵⁷¹ To this point, to obtain financing the state has looked into receiving federal grants, taking out loans, and imposing several new taxes.⁵⁷² The public bitterly opposed any plan that includes an increase in taxes.⁵⁷³ The taxes discussed include a ten percent tax on the sale of all pro-sports memorabilia sold in Minnesota, which other Minnesota sports teams believe to be unfair.⁵⁷⁴ Another tax that has been hotly contested would be a surcharge on NFL players who play in the new stadium, which may violate the Constitution's Equal Protection Clause.⁵⁷⁵

However, the Vikings' original proposal did not take into account the significant road improvements that would be needed in Arden Hills to accommodate the 21,000 or so vehicles that would be attending Vikings home games.⁵⁷⁶ The improvements, which would include road expansions and reconfiguring interchanges, were estimated at \$131 million.⁵⁷⁷ Moreover, Minnesota Governor Mark Dayton and other politicians have indicated that they would not support the state's financing of the project until those additional costs are addressed—without requiring any new state funds.⁵⁷⁸

The state had originally set a soft deadline of June 17, 2011, for drafting a stadium bill.⁵⁷⁹ However, this date came and went without any resolution to the state's problem.⁵⁸⁰ The state still needs to resolve the \$130 million gap in funding, decide transportation needs for the new stadium, and make arrangements for how the stadium will be managed.⁵⁸¹ The state wants to ensure that the stadium will be “a people's stadium, (with) events like high-

570. *Id.*

571. *Id.*

572. Kevin Duschere, *Teams Not Wild About 2 Tax Ideas for Stadium*, STAR TRIB. (Minn.), June 16, 2011, at 1A.

573. *Id.*

574. *Id.*

575. *Id.*

576. Dave Orrick, *Vikings, Ramsey County Unveil Proposal to Pay for Arden Hills Road Work*, ST. PAUL PIONEER PRESS, June 12, 2011, at VIKINGS.

577. *Id.*

578. *Id.*

579. *No Stadium Deal but 'Substantial Progress,' Vikings Say*, ST. PAUL PIONEER PRESS, June 17, 2011, at LEGISLATURE [hereinafter *No Stadium Deal*].

580. *Id.*

581. Don Davis, *State Sets Friday Vikings Stadium Bill Deadline*, W. CENT. TRIB. (Minn.), June 14, 2011, at STATE AND REGIONAL NEWS.

school and amateur sports, civic and community events, (and) public access consistent with (what's) held at the Metrodome.”⁵⁸² Discussions on these issues were expected to resume June 20, 2011.⁵⁸³ Some proposals included plans for a convention center and hotel; however, this concept received mixed reviews given that the relevant metro area already has two convention centers.⁵⁸⁴ Once a bill is drafted, a special session of the state legislature will need to be called to debate the bill.⁵⁸⁵ However, Minnesota's recent government shutdown has further delayed the project. House Speaker Kurt Zellers admitted, “We haven't had any discussions about what's in, [or] what's not, in that proposal. . . . We haven't looked at [it] for weeks, you know—I would say even months.”⁵⁸⁶ Therefore, the development of a Vikings sports.com remains stalled, but proponents are confident that a deal will eventually get done.

C. Minnesota Twins

A second Minnesota sports.com is also likely to be developed in the future surrounding Target Field, home of the Minnesota Twins, which opened in 2010. The new stadium seats 40,000 and was strategically constructed to increase pedestrian traffic in the area, which also includes the Target Center, home of the Minnesota Timberwolves.⁵⁸⁷ Mike Christenson, head of the city's Community Planning and Economic Development department stated, “We expect about 2.5 million fans to come down to this ballpark. . . . We want them to come down here and stay and walk the city.”⁵⁸⁸ The stadium was designed with a large plaza extending toward the heart of downtown to encourage people to stay in the area before and after games; however, to date, there has been little development surrounding the ballpark.⁵⁸⁹

582. *No Stadium Deal*, supra note 579.

583. *Id.*

584. *Convention Hotel Proposal Comes with Vikings' Plans*, REVENUES FROM SPORTS VENUES NEWSLETTER, Sept. 8, 2011, at 10.

585. Kevin Duschere, *Goal on Stadium Deadline Fading*, STAR TRIB. (Minn.), June 17, 2011, at 3B.

586. Mike Kaszuba & Rochelle Olson, *Vikings Ready to Talk Stadium*, STARTRIBUNE.COM (July 14, 2011, 7:30 PM), <http://www.startribune.com/politics/blogs/125601388.html>.

587. Brandt Williams, *Economic Boost Around Target Field a Spotty Story*, MINN. PUB. RADIO (Apr. 2, 2010), <http://minnesota.publicradio.org/display/web/2010/04/02/target-field-economic-boost/>.

588. *Id.*

589. Jay Weiner, *Target Field: Economic Impact is Years—and Dreams—Away*, MINNPOST (Apr. 9, 2010), http://www.minnpost.com/stories/2010/04/09/17249/target_field_economic_impact_is_years_and_dreams_away.

The construction of an entertainment district around Target Field is inevitable, but political and economic realities will delay the project. Steve Berg, author of the book “Target Field: The Minnesota Twins’ New Home,” explained that “Target Field has opened at an absolutely terrible time for ancillary development.”⁵⁹⁰ Tentative proposals for the land surrounding Target Field include a thirty-five-story “sports and entertainment condominium” development that would feature eleven floors of hotel rooms and twenty floors of condos connected to the stadium.⁵⁹¹ Other proposals for the land include a forty-story office tower.⁵⁹² The most recent proposal submitted by Developer Hines Interests would create a \$30 million, 185-unit apartment building called Dock Street Apartments.⁵⁹³ The proposal calls for the development of a “transit-oriented community,” which would take advantage of the stadium’s nearby railway.⁵⁹⁴ However, due to the recession, the Target Field sports.comm remains stalled and no project is likely to move forward until at least 2012.

D. San Diego Chargers

In April 2011 the City of San Diego released a report stating that the Chargers’ stadium, Qualcomm Stadium, needs about \$80 million in maintenance and improvements—including \$18 million for mechanical issues, \$17 million for site repairs, \$12 million for plumbing, \$9.6 million for a new video display, and \$780,000 for replacing and repairing stadium seats.⁵⁹⁵ The study concluded that the City of San Diego will lose more than \$10 million a year if the Chargers continue to stay at Qualcomm stadium.⁵⁹⁶ For years the Chargers have been asking the city for a new stadium, and given that renovating the current stadium would be so costly, building a new stadium would seem to be a good option.⁵⁹⁷

However, complicating the building of a new stadium in San Diego is the fact that competing developers in Los Angeles are planning to build a new

590. *Id.*

591. *Id.*

592. *Id.*

593. Jennifer Bjorhus, *Stalled Ballpark Village Plan Awakens*, STAR TRIB. (Minn.), July 8, 2011, at 1D.

594. *Id.*

595. Brent Schrottenboer & Matthew T. Hall, *Fixing Stadium Would Cost \$80 Million; Study Projects Yearly Loss to City from Operating Site at more than \$10 Million*, SAN DIEGO UNION-TRIB., May 21, 2011, at A1.

596. *Id.*

597. *Id.*

stadium in hopes of attracting an NFL franchise to relocate to Los Angeles.⁵⁹⁸ Rumors have circulated that the Chargers could be that franchise.⁵⁹⁹ Obviously, the city of San Diego will not be as willing to spend money on improving the old Qualcomm stadium or building a new stadium for a team that might choose to leave at any time.⁶⁰⁰

The most recent proposal that would give the Chargers a new stadium, which includes an entire sports and entertainment complex in downtown San Diego, would cost an estimated \$800 million, plus \$150 million in site preparations.⁶⁰¹ Yet, it remains unforeseen how this project would be financed.⁶⁰² Any money needed for downtown redevelopment projects must be weighed against other city needs, which at this time include schools and libraries.⁶⁰³ On June 15, 2011, the California state legislature approved a 2011/2012 budget that would jeopardize redevelopment efforts in San Diego and across the state of California.⁶⁰⁴ The budget has not yet been approved by the governor, but if it is, redevelopment agencies will be forced to give local school districts their usual share of property taxes, which up until now have been diverted to redevelopment efforts.⁶⁰⁵ This change would not only affect financing for downtown redevelopment projects, such as the new Chargers' stadium, but also affordable housing projects throughout the state.⁶⁰⁶ On the positive side, if the governor approves the budget, the state will not have to cut as much educational funding as originally anticipated.⁶⁰⁷

Overall, the attitude on getting a new stadium in San Diego is not optimistic. Jay Jeffcoat, the former chairman of the San Diego International Sports Council, was quoted as saying "I think it's south of 50 percent that we can get a new stadium."⁶⁰⁸ Meanwhile, the prospect for getting a new stadium in Los Angeles seems to be an ever-increasing possibility.⁶⁰⁹ The

598. *Id.*

599. *Id.*

600. *See id.*

601. Tim Sullivan, *Area's Wait for New Chargers Stadium not Going Anywhere Fast, or Anywhere at All?*, SAN DIEGO UNION-TRIB., May 10, 2011, at D1.

602. *Id.*

603. Schrotenboer & Hall, *supra* note 595.

604. Roger Showley, *Redevelopment Bill that Threatens Local Funding in Doubt; Downtown Effort Could Lose \$50M to San Diego Schools*, SAN DIEGO UNION-TRIB., June 17, 2011, at A3.

605. *Id.*

606. *Id.*

607. *Id.*

608. Sullivan, *supra* note 601.

609. Nate Davis, *L.A. Wants NFL Team, But Which One?*, USA TODAY, June 14, 2011, at 3C.

Chargers' owner has insisted that the Chargers are not for sale.⁶¹⁰ However, if the stadium proposal in San Diego continues to go nowhere, the Chargers could be forced to look elsewhere.

E. Los Angeles

AEG, developer of the L.A. Live sports.comm, wants to bring the NFL back to the city on a site where the Los Angeles Convention Center West Hall currently sits, and which is adjacent to the Staples Center. AEG proposes to build a \$350,000 million replacement West Hall and then begin construction of a 1.7 million square foot, 72,000-seat retractable roof stadium, with construction starting in 2012 and with completion in time to host the Super Bowl in 2016.⁶¹¹ While the football stadium would be privately financed, AEG would need the city of Los Angeles to issue approximately \$350 million in municipal bonds to cover the cost of replacing the Convention Center's West Hall.⁶¹²

The project has been described as a globally influential project, or "a world stage." So much so that Farmers Insurance has entered into a thirty-year agreement with AEG that would provide at least \$700 million to name the new stadium Farmers Field.⁶¹³ The Los Angeles City Council has formally approved the outline of AEG's \$1.2 billion sports.comm proposal.⁶¹⁴ However, AEG is not the only developer proposing an NFL stadium in Los Angeles.

Ed Roski and Majestic Realty Group of Los Angeles have approval for a proposed 75,000-seat NFL stadium in Industry, California, now known as Grand Crossing, located approximately 15 miles east of downtown Los Angeles.⁶¹⁵ The stadium would be privately financed and would be the centerpiece of a 600-acre mixed-use entertainment and retail complex, which

610. *LA Sports Firm Wooing Teams; Chargers, Raiders are Among Targets*, BOS. GLOBE, June 11, 2011, at 6.

611. *New Los Angeles Stadium*, BALLPARKS BY MUNSEY & SUPPES, <http://football.ballparks.com/NFL/LosAngeles/index.htm> (last visited Oct. 23, 2011).

612. Scott Reid, *Proposed L.A. NFL Stadium Would Require Bonds*, ORANGE COUNTY REGISTER (Jan. 20, 2011), <http://www.ocregister.com/articles/aeg-284884-city-stadium.html>.

613. Arash Markazi, *Farmers to Sponsor L.A. NFL Stadium*, ESPN LOS ANGELES (Feb. 2, 2011), <http://sports.espn.go.com/los-angeles/nfl/news/story?id=6078709>.

614. Arash Markazi, *LA Council Passes AEG's Stadium Plan*, ESPN LOS ANGELES (Aug. 10, 2011), http://espn.go.com/los-angeles/nfl/story/_/id/6847826/la-council-passes-aeg-plan-farmers-field.

615. Jacob Adelman, *City Releases Tentative Agreement on LA Stadium*, YAHOO! SPORTS (July 25, 2011), <http://news.yahoo.com/city-releases-tentative-agreement-la-stadium-004133229.html>.

includes 25,000 ample on-site parking spaces.⁶¹⁶ The proposed stadium would seat 75,000 and the sports.comm would cost an estimated \$800 million overall, which would be privately financed; however, the city's agreement with Roski would require \$275 million in bonds to renovate the site of the new stadium.⁶¹⁷

Of course, in either case—whether it is downtown or in Grand Crossing—nobody is moving forward without the commitment from either the NFL for expansion or a commitment from a team in another city to move to Los Angeles. The most likely candidates are an expansion team or teams that have expressed their unhappiness with their current stadiums or leases, including Jacksonville Jaguars, Minnesota Vikings, Oakland Raiders, and San Diego Chargers. AEG President and CEO Tim Leiweke said in June of 2011 that the NFL stadium in downtown Los Angeles could be scuttled if the city did not sign off on the framework of the deal by July 31, 2011.⁶¹⁸ Significantly, in September 2011, the California legislature approved ground-breaking protections for AEG. Specifically, it passed a bill that would expedite judicial review of the project, establish important environmental protections, and prevent frivolous lawsuits that could delay the project.⁶¹⁹

VII. CONCLUSION

The future of happenstance development, sports.comms, delayed sports.comms, or any other form of real estate development at, adjacent to, or surrounding sports facilities is very much tied to the future of the local economy in which the facility, development, or both is to be located. One thing is for certain in this recessionary economy—it will become more and more difficult to create new sports facilities due to the fact that it will be more difficult to create public-private financing packages. The recession has affected government units' ability, appetite, or both, to fund a sports facility and related projects. Reported governmental budget deficits at all levels of government, changes in priorities with respect to governmental spending, cuts and contraction in government employees and services, balanced budgets

616. Thomas Himes, *Infrastructure Needed for Proposed Downtown Stadium, But So Far No One Will Commit to Paying for It*, SAN GABRIEL VALLEY TRIB. (Feb. 4, 2011), http://www.sgvtribune.com/stadium/ci_17297487.

617. Adelman, *supra* note 615.

618. *Leiweke Says AEG May Scrap L.A. Stadium Plan if City Doesn't Give OK by July 31*, SPORTS BUS. DAILY (June 3, 2011), <http://www.sportsbusinessdaily.com/Daily/Issues/2011/06/03/Facilities/LA-Stadium.aspx>.

619. *California Gov. Signs Bill Fast-tracking Lawsuits That Challenge AEG's L.A. Stadium*, SPORTS BUS. DAILY (Sept. 28, 2011), <https://www.sportsbusinessdaily.com/Daily/Issues/2011/09/28/Facilities/LA-Stadium.aspx>.

through spending cuts or increases in taxes or fees, capacity of governmental units to back bonds, political backlash against use of public funding for stadium-related projects, and difficulties in getting either elected official support or public referendum approval have made it most difficult for governmental units to fund sports-related projects in the current political and economic climate.

Unfortunately, the economy is not likely to get better anytime soon for commercial developers. A report from the Congressional Oversight Panel in February 2011 indicated that commercial property was less affected than residential real estate in the recession but still faces a painful recovery.⁶²⁰ According to the Federal Reserve, banks have incurred \$80 billion in commercial real estate losses, which is about only half of what they were expected to be as a result of the recession.⁶²¹ Moreover, Elizabeth Warren, Chair of the Congressional Oversight Panel created to oversee the U.S. banking bailout, formerly known as the Troubled Asset Relief Program, warned of a “tidal wave of commercial-loan failures.”⁶²² However, Patrick Parkinson, a Federal Reserve official, in the follow-up hearing on commercial real estate held by the same Oversight Panel, said that “worst-case scenarios are becoming increasingly unlikely.”⁶²³

Despite the economic uncertainty, the sports.comm concept is flexible enough to give cities a multitude of options for economic development. Delayed sports.comms make all the sense in the world. It is proven that a sports facility draws people and can create commerce. Owners and government units are interested in increasing revenues through 365-day use of facilities by creating destination draws to districts. Therefore, if the Green Bay Packers plan of acquiring adjacent and surrounding real estate becomes a continuing trend in the industry, it is likely to be followed by other cities. The ability to retain 100% of the stadium revenues created by a sports.comm will likely motivate owners to attempt different strategies in creating their own.

Another trend that has begun to emerge may be what we call “clustering.” Livestrong Sporting Park is a soccer-specific stadium located in Kansas City, Kansas, and the home of Sporting Kansas City. The stadium opened during the 2011 MLS season.⁶²⁴ The stadium is located near the Village West Retail

620. Rob Purnell, *The Shepherd Perspective Volume IX*, SHEPHERD CAPITAL PARTNERS (Feb. 15, 2011), <http://shepherdcapitalpartners.com/the-shepherd-perspective-volume-ix/>.

621. *Id.*

622. Anton Troianovski, *Commercial Real Estate Coming Back, but Unevenly*, WALL ST. J. (Feb. 7, 2011), <http://online.wsj.com/article/SB10001424052748704843304576126442295848066.html>.

623. *Id.*

624. Dave Skretta, *New Stadium, New Name, New Attitude for MLS in KC*, STANDARD-EXAMINER (July 23, 2011), <http://www.standard.net/stories/2011/07/23/new-stadium-new-name->

Center in Kansas City, which is near the Kansas City Speedway and Community America Ballpark.⁶²⁵ The new location site permits the developers to take advantage of foot traffic created by the already existing sports district to further develop surrounding real estate for new facilities and commercial purposes.

Finally, team owners unable to acquire land adjacent to their stadium, often due to the venue's downtown location, have begun to buy existing bars, restaurants, and retailers rather than build a new entertainment district. Such a strategy allows the team owner to reap the benefits of nonshared stadium revenues without the risk of developing a new entertainment district in the midst of a recession. The Boston Red Sox have epitomized this strategy, beginning with Fenway Park's renovation in 2005.⁶²⁶ The Red Sox have been aggressively buying real estate within the area including restaurants, a taxi garage, and a radio station headquarters.⁶²⁷

What follows is an outline of best practices for creating a successful sports.com:

a) Anchor Facilities

i) Sports Venue

(1) Professional Sports Venue

(a) Easily convertible

(2) Additional venues to compliment the stadium to promote year-round use of the sports.com

(a) Minor League Baseball

(b) MLS

(c) Lacrosse

(d) Extreme Sports

(3) Multiple events to attract multiple people, including hockey games, soccer matches, concerts, tournaments, commencements, boxing matches, bowl games, revivals, winter carnivals, monster truck rallies, motocross events, etc.

ii) Retail Store

(1) Bass Pro Shops

(a) Regional Attraction

(2) Other large retailers that are unique to the region

new-attitude-mls-kc.

625. *Id.*

626. Scott Van Voorhis, *Sox Owners Add Another Fenway Property to Lineup*, BOS. HERALD, Aug. 11, 2005, at 45.

627. *Id.*

- (3)Must satisfy all price points
- iii)Commercial
 - (1)Corporate Headquarters
 - (2)Regional Hospital
 - (3)Convention Center
- iv)Hotel
 - (1)Preferably near or connected to the stadium
- v)Residential
 - (1)Hotels
 - (2)Condominiums
 - (3)Must satisfy all price points
- vi)Historical
 - (1)Museum
 - (a)To synergize modern development with city's historical character.
- b) Auxiliary Developments
 - i)Entertainment
 - (1)Restaurants (all price points)
 - (2)Bars (all price points)
 - (3)Movie Theater
 - (4)Concert Venue
 - (5)Recreational
 - (a)Sports
 - (b)Interactive Video Games
 - (c)Other Corporate "team building" opportunities
 - ii)Retail
 - (1)Options unique within the region
 - (a)Fit identity of the development
 - (2)Outlet malls
 - (3)Farmer's Market
 - iii)Transportation
 - (1)Should be located near a major transportation hub
 - (a)Train station
 - (b)Airport
 - (c)Highway
 - (d)Waterway
- c) Community Benefits
 - i)Community Benefits Agreement

ii) Walkable downtown

- (1) Market Street Design—Shops below residential buildings for cohesion

iii) New Infrastructure

- (1) Street beautification
- (2) Parks (“green space”)
- (3) Roads/bridges/canals

iv) New Jobs with living wages

- (1) Grocery store
- (2) Reasonable retail and dining options for low income residents and new workers

Regardless of the real estate development strategy imposed, team owners will continually attempt to create their own sports.comm due to the obvious economic and social benefits they have been shown to create. Sports.comms are people attracters and can transform a city into an entertainment destination. They can revitalize blighted areas. Most importantly, a sports.comm can change the dynamic between a sports team and a city by providing unique community benefits that would most likely not have been offered under a traditional stadium financing agreement.